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Popular Policing curated by Emmanuel Berger and Antoine Renglet

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Popular Policing

Rechtskultur 8

Introduction

Emmanuel Berger¹
Antoine Renglet

The papers in this volume were presented during an international conference at the UC-Louvain on 30 and 31 May 2018. The aim of the meeting was to continue a discussion which had started in 2012 in Trento about ways in which populations can be involved in delivering justice, commonly termed popular justice. The earlier meetings, first in Trento² and then in 2015 in Regensburg³ allowed us to expand our understanding not only of the wide range of fields related to the concept but also of the historical processes which influenced how various forms of popular justice emerged, were transformed or even became obsolete between the end of the eighteenth century and the present day. This seems to have been a key period for the increasing importance of the State and thus also for the State's monopoly on acts of legitimised violence. This process, previously explored in works by authors such as Max Weber, Norbert Elias or even Michel Foucault, reflected an affirmation of the status of the Nation-State, resulting in the legitimisation and institutionalisation of justice as administered by the 'people', under the strict control of governments. Nonetheless, the means of establishing 'institutional' popular justice were far from straightforward. On the one hand, the legitimacy of the involvement of the people in matters of justice was repeatedly contested throughout the nineteenth and twentieth centuries in Europe, both by conservative governments as well as legal professionals. The most obvious example of this is doubtless the popular jury in Spain which was subject to no less than nine reforms (adoption or subsequent suppression) between 1809 and 1888.⁴ On the other hand, the rise of institutional popular justice did not at once replace all other modes of popular justice (be they violent, spontaneous, ritualised or traditional). There was a particular resurgence of these latter methods during periods of political transition or conflicts, or in the face of the breakdown or collapse of the State.

Following the two conferences, it became clear that, in order to better understand the multiple facets and nature of these movements in the context of the shifting political, economic and social climates of society in Europe, we would have to go beyond a strictly judicial approach to popular justice, and integrate this into a broader consideration of all the various forms of policing. Whether it was through the creation of 'surveillance com-

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² Popular Justice, ed. by Delivré, Berger and Löhnig.

³ Popular justice, ed. by Delivré and Berger.

⁴ Pérez Juan, 'Popular Justice in Times of Revolution', p. 45-67.

mittees' or 'popular commissions' in times of revolution,⁵ appeals for public denunciations during enemy occupation, the negotiation of acceptable norms for consensual police control, or even the establishment of bourgeois or citizens' guards in order to combat bandits, at different times the people have been asked to participate in the process of policing. This raises a number of questions: how were the public integrated into State-controlled tools for policing? Which forms did these 'popular police' assume? What kind of relations did they have with professional bodies? And what means did the people use to exert influence on policies relating to public order?

The various answers to these questions seem all the more important given that, for a long time, the study of different aspects of popular police was limited by a rather dichotomous vision of policing. This point of view encompassed either the traditional forms of policing from the Ancien Régime⁶ or those of the Modern State.⁷ For a long time, research into popular policing under the Ancien Régime focused on the role played by neighbourhood groups, the 'gardes bourgeoises', or priests, or other organisations which were important for social control.⁸ Evolutions such as the decline of the bourgeois militia in the eighteenth century, the establishment of the gendarmerie in 1791/1796, the spread of 'commissaires de police' throughout Europe under Napoleon, and the establishment of the Metropolitan Police in England in 1829 are all regarded as signs of the triumph of the modern state and its bureaucracy over more traditional and popular methods of policing. Nonetheless, in recent years, scholars have begun to move beyond overly linear interpretations of the state as a body with a monopoly on law enforcement.⁹

In Great Britain, France or even in Germany, research has shed light on the fact that during the course of the nineteenth century, members of the population were called upon to carry out certain police tasks.¹⁰ This popular participation also occurred repeatedly during periods of unrest or during war. As with popular justice, research into popular policing therefore requires a precise analysis of how the phenomenon evolved over time and throughout Europe as well as how it interacted – or did not interact – with state bodies. The texts collected in this volume study these dynamics in order to offer insight into both specificities and general trends of different forms of popular participation in policing during the period from the end of the Ancien Régime until the 1930s.

⁵ Les comités de surveillance, ed. by Pingué and Rothiot.

⁶ In terms of recent studies on the modernisation of the police from the eighteenth to nineteenth centuries, see the following, non-exhaustive, list: Williams, *Police control systems*; *Organiser, innover, agir*, ed. by Campion.

⁷ Churchill, 'Rethinking The State Monopolisation', p. 131-152.

⁸ Milliot, 'Mais que font les historiens'; *Social control in Europe*, ed. by Roodenburg and Spierenburg.

⁹ Roodenburg, 'Social Control Viewed from Below', in *Social control*, ed. by Roodenburg and Spierenburg, p. 146-147.

¹⁰ Houte, 'Citoyens policiers?', p. 100; Churchill, *Crime control and Everyday Life*; Johansen, 'Police-Public Relations', p. 499-501; Sälter, 'Locale Ordnung und Soziale Kontrolle'; Lucrezio Monticelli, 'Pratiques de police'.

I. POPULAR POLICING DURING THE OLD REGIME

While the eighteenth century is generally seen as the time at which bourgeois police were being phased out, there are two papers in this volume, one by Brigitte Marin and the other by Livio Antonielli, which give some nuance to this affirmation. Their work shows above all that popular participation in policing was not in any way limited to the formation of militia. Brigitte Marin reminds us of the extent to which neighbourhood organisations which were originally established for the purpose of social control, in fact still existed until the end of the Ancien Régime in numerous towns throughout France. Furthermore, these popular institutions which had been given police powers did not all originate in the Middle Ages or towards the beginning of the early modern era. In addition we see that the idea of electing local police officers was not an innovation of the French Revolution.¹¹ The cities of Naples and Madrid are perfect examples of this. In Naples, the people remained attached to the practice of electing capitani until the end of the eighteenth century, and the people firmly defended their right to choose these local agents. Despite the election process, the inhabitants of the *ottine* – the districts of Naples – made sure that they chose capitani with impeccable reputations who had the skills required to carry out the role, assigning people such as property owners and craftsmen. With just a few exceptions, the capitani were in fact members of the communities which elected them, and were therefore very familiar with the neighbourhoods under their control. In her second case study, Marin demonstrates how the *alcaldes de barrio* of Madrid was an institution widespread throughout the whole of the Spanish empire. They too were a sign that popular participation in policing during the eighteenth century was not simply a leftover from the pre-existing medieval system. Rather, the creation of this institution in 1768 was a response to a move to bureaucratised police work towards the start of the revolutionary era, and, more generally, was part of a movement towards the professionalisation of the police. The *alcaldes* were in favour of voting rights being reserved for the local elite in order to ensure that officials would be re-elected year on year. Even if the Madrid government often expressed opposition to elections which were unfairly influenced, or even rigged, until 1801 they were still opposed to reducing the voter base, insisting that this function had originally been created in order to ensure that the poorest people would be represented within the legal bodies. In the end, numerous *alcaldes de barrio* were easily able to get themselves re-elected, suggesting that candidates were selected less for their technical abilities than for their reputations.

Like the *alcaldes de barrio* in Madrid, the examples of the *Capitani di strada* in Naples also show that the involvement of the people in policing was not necessarily incompatible with the development of state institutions. The general aim of the institutional reforms at the end of the eighteenth century was to integrate these auxiliary popular groups in charge of social control into the royal justice or bodies of urban administration. A more specific example of this overlap of State authority with popular consent in police activity can be found in the *esecutori* of the *Magistrato di Sanità*, explored in Livio Antonielli's

¹¹ Denis, 'Les commissaires de police'.

research on Milan in the seventeenth and eighteenth centuries. Antonielli shows that the *deputati di Sanità* played auxiliary roles in justice, at the very bottom of the chain of hierarchy of the administration of the Italian Duchy. They were chosen from the members of the community, and also appointed and paid for by the community. However, the legitimacy of the people selected relied on the *Magistrato di Sanità*. That is to say, it was derived from central power, whose only requirement was that these offices should be held by individuals who were deemed competent and of good reputation.

Although there were different electoral systems in the different localities of the Duchy, the *deputati di Sanità* were generally all members of the local elite. They had to be able to write, and had to collaborate with doctors and surgeons in order to fulfil their obligations. In the event of a health crisis such as an epidemic, the *Magistrato de Sanità* would hand over responsibility for the sanitary police to another category of officials, the *commissari fornsensi*, who, unlike the *deputati di Sanità*, were high-level public servants appointed by central government. Some were required to offer their services in case of significant health catastrophe, whereas others were chiefly in charge of the roads and borders of the Duchy. While performing their duties, the *commissari fornsensi* were faced with the need to collaborate with the population. They could, for example, revive the older customary practices of defence in rural communities in order to exercise surveillance over regions which were less firmly under the control of the officers of the state of Lombardy. The last and final category of *esecutori* of the *Magistrato della Sanità* were the *anziani di parrocchia*. These civil and licenced officers were elected by the heads of families of the parishes of Milan. They held numerous competences in terms of police duties: seeing that streets were clean, controlling beggars, recruitment for the militia etc.

The example of the *esecutori* of the *Magistrato della Sanità* offers a slight counterpoint to the received view that the English police force was unique in relying on the community for the task of law enforcement. There were in fact numerous similar examples on the continent, and not only in the north of Italy. In their texts, Brigitte Marin and Livio Antonielli thus invite the reader to reconsider the view put forward by Michael Braddick that state institutions gradually appropriated police functions throughout the course of the seventeenth and eighteenth centuries.¹²

II. POPULAR POLICING DURING THE FRENCH AND POLISH REVOLUTIONS

As the question of public law enforcement arose in France at the end of the *Ancien Régime*, it became the object of intense conflict between the different established authorities at the start of the French Revolution. The contribution to this volume by Maria Betlem Castellà i Pujols offers insight into the role played by the Committee of Reports (*Comité des Rapports*) of the National Constituent Assembly in relation to the increasing control over policing by legislators. The Constituents' initial plan had been qui-

¹² Braddick, *State Formation*.

te different. In fact, on 6 August 1789, the Constituent Assembly decided to entrust law enforcement to the municipal authorities. However, given the tumultuous events of the Revolution, it quickly became apparent that the local authorities were not systematically applying the decrees for which the legislators had voted. This reluctance to adopt the decrees was particularly evident when it came to enforcing martial laws. Therefore in order to better enforce its decrees, the Constituent Assembly tasked one of its committees – the Committee of Reports – with preparing the measures necessary to re-establish public order and implement laws. Between August 1789 and August 1791, this committee handled 20% of the correspondence addressed to the Constituent Assembly and produced 190 reports. This activity reflects its growing influence over the relevant prerogatives which in theory came from the government. The king repeatedly expressed his concern regarding the growing violence and demanded the reinforcement of the powers of public order. However his requests were refused every time by the Constituents who feared that this would lead to the reinstatement of a system of royal despotism. Distrust of the king, however, did not prevent the Committee of Reports from working jointly with the different ministries in order to take numerous appropriate measures. These included: communication of decrees, approval or refusal of decisions by local authorities, suspension of responsible authorities, summoning the responsible authorities to appear in front of the Court of Orleans in case of crimes of *lèse-nation*. The Committee's activity was gradually reduced over the course of the summer of 1790 following the elections of the representatives of the districts and departments. From then on, a large proportion of matters of public order would initially be dealt with by the elected district and department authorities, and the Committee would only be informed afterwards. However in case of conflict between the local authorities, or during major eruptions of violence, the Committee would intervene directly by sending civil commissioners. Officially these commissioners were appointed by the king, but in actual fact they reported back on their missions only to the members of the Committee of Reports. After the fall of the monarchy, the National Convention extended and enlarged this new method of law enforcement by deploying well-known *représentants en mission*.

Michał Gałędek's contribution shows at the same time as the situation in France around 1790 was generating discussion over different policing models, a similar debate was also emerging in Poland. Starting from the second half of the eighteenth century there were numerous reforms in the Republic of Two Nations which aimed to modernise political institutions in Poland and Lithuania. The first moves towards reform were undertaken in the reign of Stanislas Auguste Poniatowski resulting in the adoption of the republican constitution by the Four Years' Parliament on 3 May 1791. Over the course of these developments, parliament decided to abolish the convoluted system of tribunals, which hereafter were to be in session permanently, and it also decided to require that judges should have previous experience of public office. This partial professionalisation was, however, tempered by the republican tradition which transformed the position of judge into an elected position which was performed with no pay. After Prussian annexation in 1795, the debates over the choice between a 'professional' or 'lay' justice system continued, and became even more animated following the creation of the Duchy of

Warsaw. From 1808 onwards, the Polish justice system was reorganised using the Napoleonic model. In civil matters, this reform was characterised by the adoption of the Code for civil procedures, as well as the Napoleonic Code and the justice of the peace. The Polish justice of the peace was elected for a fixed term, and fulfilled the role without a salary. This model fitted the traditional “republican” approach to judiciary functions. However, in line with the reforms which were started during the ‘Four Years Diet’, some more professional aspects had been introduced. Contentious civil affairs and petty crimes were dealt with by the *podśędek*, a professional magistrate with a salary who was appointed for life. After the fall of the Empire and the integration of Poland into the Russian Empire, a committee for civil reform was established with a view to reorganising the Polish judicial system. The work of the committee was reflected the general reaction against the French model which was considered foreign to the existing national legal and political traditions. Specific suggestions of the members of the committee included abolishing the code of civil procedure, drastically reducing the justice budget, abolishing the position of *podśędek*, etc. The central suggestion for reform was to bring back a traditional system of law enforcement based on a ‘citizens’ magistrature, which was an unpaid position, elected for a fixed term by nobles and urban elites. At the same time, the members of the Committee agreed on partially adopting French law, promoting the function of the justice of the peace and the use of a popular jury. While the French legal model was eventually rejected by almost all of the European territories which had been liberated from the Napoleonic Empire, Poland thus stood out thanks to its continued attachment to the republican tradition of a non-professional justice system following principles similar to those the French revolutionaries fought for.

III. NATIONAL GUARDS IN THE NINETEENTH CENTURY

The French influence can also be seen in another institution which became an emblem of the Revolution: the *Garde nationale*. This model was both exported into the annexed European territories of the *Grande Nation*, and was also reactivated during the revolutions of the nineteenth century. This domestic force¹³ relied on popular adherence to the task of law enforcement and sought to assure the right of every citizen to arm themselves in order to guarantee their own security as well as that of their community. This volume contains three texts which consider the extent to which the national guard was a state or popular institution, although the short answer is that it was both.

The research of Francesco Dendena demonstrates that the national guard in the Cisalpine republic was organised by the minister of the Police, Gaetano Porro, as a means of controlling the rural territory and its villages. The initial reason why the minister put mobile columns (*colonnes mobiles*) into place was in order to fight the bandits who were ravaging the countryside of Lombardy. Matthias Pareyre’s research demonstrates that the decision to establish a national guard was not unequivocal. The guards never arose exclusively as the result either of a central government decision or out of some ‘sponta-

¹³ Guibert, *De la force publique*.

neous' popular desire. In the eyes of the authorities, the national guard had the advantage of constituting a reserve force which could conduct policing duties but was also a way of maintaining discipline amongst the bourgeois youth. This latter function of the militia is indicated by the fact that they had to wear uniform, and that there were rules containing numerous provisions to ensure the discipline of the guards. Indeed, a few months after the 1830 revolution, the July monarchy reinstated the institution of the guard in order to project the image that the population was in support of Louis-Philippe. Nonetheless, as seen in the third contribution on this topic, Axel Dröber's research has demonstrated how the government rapidly sought to contain this armed force, and in 1831 they passed a law regarding the organisation of the national guards. This law enforcement body was thus activated in times of trouble, in moments when the State was weak or even threatened. Bandits and popular insurrections were also reasons to mobilise citizens. To start with, authorities invoked the revolutionary aspect in order to mobilise individuals, but this was gradually replaced by a role that was more police-like, and this role too eventually diminished. The development of these functions was accompanied by a reduction in engagement and weakening of discipline. In Rennes, for example, in the months after the National Guard was first established it gradually lost its prestige amongst the population. The guards had ever less power to impose their authority and eventually even became the victims of aggressions.

These three contributions on the national guard also remind us that the memory of the revolutionary experience of 1789 remained extremely important throughout the nineteenth century when the need arose for the fast and efficient reactivation of national guards. The memory of popular participation in policing is even more prominent given that the episodes of insurrection in 1830, 1848 and 1871 were all reminiscent of the events of 1789. For the members of the national guard in Rennes, the task of law enforcement was above all about defending the revolutionary institutions which protected political freedom. The capacity and opportunity for citizens to organise themselves into guards was regarded as the manifestation of a community's sovereignty in the face of the state's power. The texts in this volume relating to the National Guard also consider the question of how companies were recruited. Apart from the case of the Cisalpine, the companies of the guards consisted of young bourgeois men from the cities, thus providing a certain reminder of the bourgeois guards of the Ancien Régime. Until the middle of the nineteenth century, it was expensive to join the National Guard and the role was thus reserved for members of the bourgeoisie. Starting in 1848, as Matthias Pareyre explains, the National Guard gradually opened up and became accessible to members of the proletariat. By 1870 it had become a reserve force on a national level with the aim of protecting France from Prussian invasion.

From 1789 onwards, the national guard was both a body of politicisation and also a tool for law enforcement. In urban areas, the guard became a reinforcement for the police similar to that offered by the bourgeois militia during the Ancien Régime. On the borders of the Cisalpine Republic, the mobile columns of the national guard, which were first used only in exceptional circumstances, later came to be deployed for nightly pa-

trols. In the course of their mission, the mobile columns would stop young men who were alone or small groups consisting of maximum four individuals. However, contrary to the authorities' claims, these columns were less involved in tackling larger groups of bandits, and more focused on catching petty thieves. In reality, the reason that the national guard carried out these patrols was to occupy public space and increase visibility of a force which was large in number and organised by citizens, thereby preventing disruptions to public order.

IV. ARMED MOBS AND POPULAR MILITIA

However, reliance on the National Guard as a tool for law enforcement was not at all universally accepted in the nineteenth century, even in times of revolution. During the years following the fall of the Napoleonic empire, there were a multitude of insurrections in the southern regions of the Italian peninsula which were suppressed by the Bourbon kings. In this context, the year 1848 proved particularly dangerous for the crown since a revolution broke out in Sicily in January and managed to render the island independent from the continent for a period of several months. On 15 May of that year, Ferdinand II violently suppressed an attempted revolt in Naples. In his contribution to this volume, Pierre-Marie Delpu analyses what repercussions the massacres of May 1848 had in the peripheral areas of Reggio-Calabria. In these regions, the revolutionaries considered the events of May 1848 as a breach of the pact between the king and his people. The monarch's legitimacy was supplanted by a new revolutionary legitimacy based on popular participation. The local elites (priests, land owners, mayors) established committees in the municipalities and appropriated the powers over police, justice and taxation which were previously in the hands of the king. For the defence of the different insurgent movements, their leaders decided to mobilise the people, arming them and cultivating their participation in law enforcement. Numerous debates arose between moderates and radicals over the question of whether this popular participation should take the form of national guards. There was still a good deal of mistrust towards this institution which was associated with the old order, and the revolutionary elites were therefore in favour of mobilising the population in another way, through the destruction of royal emblems, by reading anti-royalist sermons or even by performing rituals of popular justice against the tyrant. However, when faced with the weak level of politicisation among the population, the most efficient method of popular mobilisation seemed to be to offer financial rewards to the people through family and social networks.

Another example of popular participation in policing during a period of revolution can be found in Emilio Scaramuzza's research into Sicilian squads. After Garibaldi's army landed in Sicily in 1860, the Brigades of the Redshirts were so weak that the army had to enlist the help of popular squads in order to help defeat the troops loyal to King Francis II. However, these armed groups consisting mainly of poor farmers were involved not only in military action but also in policing Palermo and the surrounding countryside. One of Garibaldi's priorities was, in fact, to avoid all anarchy in the town. The

squads were placed at strategic locations in order to keep watch over the land (ports, bastions), and defend the new revolutionary order (city hall, university, police). In Palermo the squads patrolled the streets, often with the Redshirts, and intervened wherever they were needed. In the surrounding countryside, the squads played a particularly essential role in suppressing bandits. The new authorities gradually re-established the different urban police forces and were also able to rely on support from the army and the national guard. Over time, the relationship between the squads and these different forces proved rather problematic, and this provoked numerous clashes between individuals, and conflicts in matters of jurisdiction. The violence and brutality perpetrated by the squads then became a threat to public order. In addition, as the threat from the Bourbons receded, there was increasing criticism of the lack of discipline amongst these groups leading to their gradual disbandment. This disbandment proved essential for Garibaldi to project an image of order and stability to other European governments and to continue his advance beyond the Strait of Messina. Public law enforcement could no longer be in the hands of the divided popular police forces but instead would need to rely on a professional police force similar to those in the Kingdom of Sardinia. It was clear to the general that standardising the policing organisations in Sicily would contribute to the political and institutional unification of Italy.

Different forms of popular police, centred around what the American political scientist Kowalewski termed 'vigilantism', tend to surface as soon as authorities begin to give the impression that they are not able to cope with social deviance. The authorities thus support different forms of popular participation in policing, yet like the rest of society, they will not stand for these groups themselves becoming a source of trouble. There were similarities between the situation in Sicily in 1860 as described above and the 'vigilante groups' established in Barcelona at the start of the twentieth century, researched by Florian Grafl. From the start of the First World War until the Spanish Civil War, the violence which erupted in Barcelona in effect repeatedly led the authorities to establish auxiliary forces to keep public order, in addition to the ordinary police force. These included informants who famously were recruited from the criminal underworld. However this was not always an efficient move as those very informants were often behind the violence which was widespread at that time in Barcelona, the capital of Catalonia. Ordinary police forces had difficulties keeping peace and order in the city and in this context, starting in 1918, the Federación Patronal of Catalonia established a parallel police force called the Banda Negra. Its members served as police-informants in a very organised way, and infiltrated the proletariat communities of Barcelona as agents provocateurs. Alongside other examples of popular participation in policing, Florian Grafl cites the case of the Sometent militia which was probably the most successful group. Initially active in the Middle Ages, there was renewed interest in the group during the second half of the nineteenth century as part of a revival of Catalanian traditions. By 1919, 8000 members of this militia were patrolling the streets of Barcelona. As with the National Guards in France, in order to join the militia one needed a good reputation amongst the citizens of the city. The members of the Sometent had to be either professionals or property-owners.

Their mission was no different from that of the official police force, and the collaboration between the different police forces suggests that the *Sometent* constituted a truly powerful force of auxiliary police. Both the *Sometent* and the *Banda Negra* were eventually dissolved, as they contributed to the escalation of violence in Barcelona, and also because it proved impossible for the authorities to control them.

V. POPULAR POLICING AND CRIME

Popular participation in policing not only took the form of auxiliary police forces but also took the form of collaboration by consent of individual citizens. In her contribution to this volume, Maria João Vaz examines the situation in Lisbon in the nineteenth century. The civil police force in Portugal's capital city was originally inspired by the Metropolitan Police in London. The influence of the English policing model was particularly noticeable through the force's means of assisting the local population, a task to be conducted by civil police guards in a consensual, even paternalistic way. The aim of the authorities was to establish a civil, uniformed and non-armed police force. The main function of civil police officers was to patrol the streets of the city both day and night in order to safeguard the safety of people and property, as well as defending the other 'rights of the citizens'. The working classes were likewise calling for the creation of a police force that could prevent and reduce criminality. Over the course of the nineteenth century, the labouring classes gradually came to accept that the police were acting in the interest of the people, and not only to the advantage of the ruling elites. From then on, police activity garnered increasing support from the people, at times even resulting in concrete actions like help from the public in arresting an individual.

By analysing the management of large crowds, Laurent Lopez's research on France at the turn of the century demonstrates how people's involvement in police actions influenced the public order policy which was determined by the authorities. Under the Third Republic, public opinion became a factor which could influence the means and methods for maintaining public order. Certain sections of the population even put pressure on police authorities by voicing their opposition to the budget allocated for police salaries when this came before the municipal council. Groups of the population also resorted to petitions in huge numbers in order to argue for increased measures for security, and for the right to play an active role in police activities. In addition, unlike petitions which were becoming an out-dated means of communication between rulers and the people, the written press enjoyed a veritable explosion in printing numbers during the *Bellevue Époque*. The press came to be considered as the legitimate mouthpiece of a population which was calling for greater efficiency from its police forces. In conclusion, the forces which the state provided to maintain public order could not work efficiently in a society which was lacking in social cohesion, nor could they function without the involvement of the public.

VI. POPULAR DENUNCIATIONS

One of the most symbolic demonstrations of public involvement in police activities during contemporary history can be seen in the act of denunciation. The activities of the Haute Police during the era of the Consulate and the Napoleonic Empire were often compared to the government who made use of thousands of spies to monitor and denounce enemies. In her research, Jeanne-Laure Le Quang analyses the role played by the fanciful stories perpetuated by the Haute Police. While it is always risky to precisely quantify such matters, it seems that the police and Ministry of the Interior actually made use of a far smaller number of informants than legends would have us believe. On the other hand, the tasks of the Haute Police included surveillance and prevention not only of political crimes but also regular crimes. To this end, informants from a range of social backgrounds would spy on gambling houses, cafes, salons or even theatres. This led to rather fluid boundaries between the world of crime and that of the informants. Some informants, such as Pierre-Hugues Veyrat or Jean-André François, managed to exploit this fluidity to aid of their own social climbing. As well as surveillance, the informants were also tasked with influencing public opinion by spreading rumours, in particular stories in support of the Consulate and later the Empire. Thanks to their double role of surveillance and influencing the public, the informants played a key role in 'establishing consent' to Napoleonic rule. In addition to these 'professional' informants, the government also relied on the help of lay citizens. The police ministers of the Consulate and the Empire were building on the heritage of the revolutionary culture of popular denunciations, using public proclamations to encourage people to denounce the enemies of public order. The penal code of 1810 helped institutionalise this process and encouraged popular denunciation by offering remissions of sentences or sanctions in exchange. The records of letters of denunciation show that accusations were mostly made against individuals who had expressed anti-government opinions, against those who were deemed insufficiently patriotic, or those who were not from the local area. It seems also that the authors of the letters made fluent use of the official rhetoric of the regime in relation to policing, and also followed the development of repressive politics. The fact that the authors were able to use the official rhetoric in fact allowed them to manipulate denunciations and use them to personal advantage: requesting compensation for costs incurred from surveillance activities; requesting work, titles, awards; taking the opportunity to get rid of a political or personal enemy etc. Although often tied up with personal aims, these denunciations were the main way in which the police could place an individual under surveillance. This overlap between individuals and government interests points to an alternative view of a population who otherwise might be seen solely as 'victims' of the police regime. Yet in reality, it was very clear to the governments of the Consulate and of the Empire that they had much to gain from popular participation in the work of the haute police and they therefore continued to encourage this participation in order to reinforce the legitimacy of the Napoleonic order.

The research of Ronan Richard also analyses the issue of popular denunciations, not in relation to the Consulate or the Napoleonic Empire but during the First World War. In that context of whole-scale mobilisation, the press and French publications incited fear of 'the enemy from within' and of spies connected to the Germans. Those members of the population who had stayed on the home front actively participated in the search for spies across the whole of France. This activity was seen as a public contribution to the war effort. A particularly large number of denunciations came from the coastal regions where refugee camps were situated along with work camps and also holiday homes frequented by Germans before the war. The enemies of the state who were denounced were not only Germans but also people from groups mistaken for Germans in the popular imagination such as people from Alsace, Lorraine, the Swiss, Russians and other foreign refugees. Anyone foreign to the native population came to be seen as suspect. There was such a level of mistrust that even just being a tall, blond man, or an overly-hairy woman (seen as a sign of a male spy disguised as a woman) became targets for suspicion. The same was true for any individuals who had a name that was German, or German-sounding. This fear was compounded by the recent arrival of large numbers of refugees along with the construction of internment camps for prisoners of war and the people of the German and Austro-Hungarian Empires. As shown by Jeanne-Laure Le Quang's research on the period of the French Consulate and the Empire, patriotic denunciations were often driven by a personal motivation. This was particularly true of the work camps, as people complained that the products being manufactured there provided unfair competition for domestic producers. The denunciations were generally taken seriously by the authorities and were investigated in order to avoid any new wave of popular violence similar to the events of the first months of 1914.

People were not only encouraged to make popular denunciations in order to reinforce authoritarian regimes, or during wars. In the chapter by Laurence Montel, we learn about the case of Claude Malméjac, an 18 month year old child who was kidnapped from 29 November to 2 December 1935, which is an exceptional example of active collaboration between the police and the population of Marseille. The unusual thing here was the fact that the police and justice authorities encouraged the collaboration. Faced with a stalling official investigation, the authorities launched an appeal for witnesses via telegraph and newspapers. In the space of five days, they received dozens of letters and denunciations. Analysing this correspondence we uncover a great social diversity amongst the authors of the letters. Postmen, teachers, unemployed people, mechanics, judges and even ex-convicts responded. They were not satisfied merely with denouncing suspects, or suggesting lines of enquiry; they themselves became involved in the inquiry by interrogating and even shadowing their neighbours. Mediums and occultists also became involved, drawing on their expertise and new 'sciences' in order to find the Malméjac child. This democratisation of inquiry methods also had a direct impact on the professional police forces and judicial authorities. The judge in charge of the investigation was able to rely on the support of hundreds of inspectors from different police forces. In view of the case's importance, the judge gave the police a great deal of auto-

nomy, contributing to a dilution of professional hierarchies and less delineation between traditional areas of specialisation. For a period of several days, judges, police and members of the public together became a vast community of investigators. This mobilisation of the population can be explained by the fact that this event called to mind previous disappearances (Nicole Marescot in 1935, Charles Lindbergh in 1932), and led to a fear of the spread of American 'gangsterism'. The public enthusiasm can also be explained by the level of media and press attention which the case garnered. Journalists were not satisfied simply with reporting on the efforts of the police but also acted like inspectors themselves, promising rewards in order to get the public to assist them. Indeed the press gained such importance that the police and magistrates planned their actions according to the leads which the journalists were following. France in the thirties was marked by a series of crises, yet this exercise in popular, collective policing seemed to have managed, at least for duration of this case, to re-establish a moral, political and social unity.

Having given an overview of the work in this collection, it only remains for us to express our thanks to the people and institutions who have helped make possible the organisation of this conference on 'Popular Policing in Europe (18th-19th Centuries)'. The FNRS and the Institut des Civilisations, Arts et Lettres (INCAL) of the Université catholique de Louvain whose financial and logistical support enabled the conference to take place in the best possible conditions. We would also like to thank the members of the scientific committee¹⁴ of the conference as well as the editorial board¹⁵ of the *Rechtskultur – Zeitschrift für Europäische Rechtsgeschichte*, which agreed to publish the present volume.

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Elective popular offices and urban law enforcement in the 18th century

Brigitte Marin

During the 18th century, and even more so afterwards, the development of police services in Ancien Regime towns is marked by the decline of civilian police forces made up of local inhabitants giving way to an increased professionalization of this workforce and to a wider centralisation of its command chain. At the time, local populations agreed to the partial transfer of their supervisory powers, previously embodied by middle-class watches for example, to law enforcement professionals specifically paid to ensure public peace. There has been a multiplication of studies on very diverse European towns in the last few years, with a particular focus on daily surveillance practices, on the police profession, and on the relationships between power-holding agents and local populations, which have allowed for a better comprehension of the evolution of police forces at the end of the modern period. They have revealed that far from being a linear process leading to community police forces and a centralised state police, this evolution is characterized by many local variations in public order improvements, sometimes even by reverse movements tending to revitalize neighbourly organisations deeply rooted in local spaces dating sometimes back to the Middle Ages.¹

Middle-class watches (or militias) who mainly guaranteed the safety of French towns at night were generally criticised, especially in the second half of the 18th century, for their inadequacies when faced with urban growth and the 'rise of perils.' Popular upper classes were however becoming more and more reluctant to provide this service for the community and attempted to free themselves from this chore by paying out substitutes who were more interested in the meagre earnings than in any civic participation. The success of these professional, specialised and paid lookouts in replacing middle-class watches in many large towns, must not overshadow resistance movements against this trend in places such as Nantes² or Marseille³ where traditional law enforcement continues un-

¹ Denys, 'The Development of Police.'

² Stéphane Perréon showed that despite both the 1786 royal decree and the Intendant's and Brittany's Chief Commander's commitments for the establishment of a professional watch, the reform did not succeed when faced with the municipality's opposition who defended a preventive deterrent neighbourhood police force well-established in the urban fabric and with proven intelligence methods (Perréon, 'Guet professionnel', pp. 151-167).

³ In Marseille, magistrates promoted successive improvements in the bourgeois militia. The latter was under the command of four neighbourhood captains generally designated every year by the City Council and originating from honourable city families. Strengthening the workforce with extra guards and establishing new watches were preferred to the introduction of a 'royal' watch in order to retain control over the town watch and to prevent the expenses of paid troupes (Rosania, 'La configuration de la police',

til the Revolution. Their military role having become marginal, these middle-class militias managed to retain essential policing functions in their role as mediators between the authorities and local populations in urban space management and public peacekeeping. They maintained the vivacity of interpersonal relationships and collective vigilance within the neighbourhood and contributed to the integration of the working class within the life of the municipality.⁴ In Toulouse, the decline of middle-classes' military functions did not affect the *dizeniers* police activities. These local agents inherited from the Middle Ages (roughly 450 in the middle of the 18th century) pursued voluntary missions of surveillance, peacekeeping, mentoring and information around the blocks they lived on, in exchange for the dignity and small privileges these functions bestowed upon them.⁵ On the contrary, they acquired new policing duties in the second half of the century (ticketing, conducting searches, public lightning) and became *commissaires de quartiers* ('neighbourhood superintendents') in 1783 identified through their uniforms. There are corresponding *dizeniers* figures in Bordeaux or in Lille, or under different names in other places like for instance the *connétables des rues* in Valenciennes whose functions at the *ruage* level (understood here as a little civilian constituency) were modernised by the municipality from 1768 onwards.⁶

Numerous towns therefore retained more or less institutionalised neighbourhood organisations until the end of the Ancien Regime, coordinated by small-scale dignitaries from the local community, whose role in the arbitration of small conflicts, in social mediation and conciliation, as a relay for local authority, and in assisting in the identification and arrest of delinquents, was accepted by both local inhabitants and high-level authorities. They preserved a sense of neighbourly sociability and solidarity as well as a collective control over local behaviour patterns. These duties were not financially rewarded and those who performed them received simple honorary retributions. Devoid of any coercive power, they did have a certain authority whilst remaining close to their constituents on behalf whom they could also speak out when needed. These institutions and practices carried on throughout the 18th century and were sometimes even renewed and improved – financial considerations did play a role in the authorities' decision to uphold them as middle-class duties were exercised without payment – yet they were also criticised as they placed law enforcement powers in the hands of people of an inferior rank, often accused of ignorance and corruption, ill-prepared to the recording and writing duties that were increasingly demanded by the administration.

These subordinate roles often remain rather unknown as they have left few and discontinuous traces in the archives. It is therefore difficult to make out precisely how one would gain access to these duties or to measure the attractiveness of the position, and even less so to assess the agents' motivation. Their modes of designation varied between towns. They seemed to be mostly chosen and nominated directly by officials, sometimes

pp. 141-156) .

⁴ Saupin, 'La milice bourgeoise?'

⁵ Laffont, 'La police de voisinage.'

⁶ Denys, *Police et sécurité*, pp. 328-332. Denys, 'The Development of Police', pp. 338-339.

for long times periods – as long as they were able to exercise their duties – like the *dizeniers* in Toulouse,⁷ sometimes via an annual rotation system, like the neighbourhood captains in Marseille. They were close to the population as they carried out their monitoring, registration and reconciliation missions thanks to their long-established residence within the neighbourhood⁸ and their social profiles – mostly craftsmen and small merchants. In other cases the population was required to take part in an elective process to make sure these duties went to those most likely to be heard and respected by the locals. It is precisely on these forms of popular expressions and on the local participatory processes in the designation of local law enforcement agents that I would like to focus, in order to better comprehend these forms of popular policing during the Ancien Regime. I will look more specifically at two case studies located in Southern European capital cities where policing powers were shared between royal tribunals and local authority and where the reinforcement of royal police forces, in the last third of the 18th century, was used for the expansion of monarchical government intervention in city management. On the one hand, there are Naples' *capitani di strada* ('street captains'), a long-established part of the local authority's organisation who remained active until the end of the century. On the other hand, I will examine Madrid's *alcaldes de barrio*, new types of auxiliary police officers introduced in the late 1760s as part of the larger reform movement for the improvement of public order in the city, a creation that quickly spread over to other Iberian towns and cities.

In order to help outline popular participation in law enforcement and the socio-spatial roots of police subordinates, one needs to examine the rules of eligibility and the modes of designation by local populations, as well as territorial jurisdictions, the extent of validation and acknowledgement by competent authorities and procedures' evolution throughout the 18th century. Despite the lack of documentary evidence, it is possible to gather some data on these actors' social profile and to illustrate how their legitimacy was either accepted or challenged when exercising their policing duties and small judicial powers; originating from popular urban backgrounds, they evolve between a locally built authority based on their daily relationships with the inhabitants, and a gradual integration in central law enforcement services.

I will draw conclusions from comparing these two case studies as regards the discourse and attitude of governmental elite towards these popular public order figures, especially within the context of reforms aimed at setting up new professional police forces placed directly under central governmental control, thus leading to progressive changes in these popular duties.

⁷ Laffont highlights that *dizeniers* however used to suggest their own replacements, which made it de facto a charge passed from father to son (Laffont, 'La police de voisinage', p. 24).

⁸ However, in the case of Marseille, in the 18th century, captains no longer came from the districts for which they were responsible.

I. *CAPITANI DI STRADA*: A TRADITIONAL DUTY BETWEEN POPULAR ELECTION AND SERVICE TO THE PRINCE

As Naples' city clerk between 1607 and 1613, Giulio Cesare Capaccio is well informed of urban institutions when he depicts a foreigner and a citizen in his dialogue called *Il Forastiero* (1634). When asked what are *capitani*'s functions the citizen replies that although he is not aware of the word's origins they are the 'chiefs of their *ottine* or regions, as are the *caporioni* in Rome'. He indicates that this is a 'highly reputable' function as *capitani* must look after their *complateari*,⁹ and all *ottine*'s inhabitants, *cittadini* (citizens) as much as *forestieri* (foreigners)', making sure they would be neither 'offended or offensive'. They also looked after the poor, organising charity and the endowments set up by the *Piazza del Popolo*¹⁰ to wed destitute women. They provided certificates and testimonials required by the inhabitants. And most importantly, they were the guarantor of 'the popular reputation' regarding the orders of the prince and the *Eletto del Popolo* whom they obey and to whom they lend 'their eyes, and make sure they fulfil such necessary duties with thorough care'. Finally, he highlights their importance as the 'chiefs of such a great people, as is that of Naples'. They were generally appointed for six months 'so that everybody got a chance to take part in such honours' although some remained in office for almost ten consecutive years.

This testimony shows that these duties were highly regarded in the early 17th century. Yet they have stayed rather unexplored, as they have left few traces in the archives especially since those of the *piazza popolare* have been lost. Elected by family chiefs' assemblies in each of the 29 *ottine* that divided the urban space, the *capitani* did play an important role in the ruling of the capital's population, not only because of their policing and support duties but also because they were one of the backbones of the municipal institutional structure formalised between the Middle Ages and the early modern period. From 1498 onwards it was the Prince who nominated captains, thus conveying the function with the dignity and the authority conferred to royal officers, even though this was done on the basis of three names voted by *ottine*'s (neighbourhoods) people assemblies. *Capitani* summoned *Popolo*'s family chiefs to elect two *procuratori* for each *ottina*, who would then designate ten *consultori della piazza popolare* and draw up the list of names from which the monarch would chose the *Eletto del Popolo*. *Capitani* also took part in the

⁹ Literally those who live on the same *platea* or street. It relates families of citizens entrenched in the *ottina* who take part in the election of the *capitani*.

¹⁰ In Naples, as in other Southern Italian cities, local government rested on a marked distinction between nobles and *popolani*. In 1498 the sovereign Federico d'Aragona had stipulated that an *Eletto del Popolo* would sit alongside nobles' representatives to administer the city: an act of recognition that definitely contributed to the constitution of *popolani*'s political capital. Municipal functions were split between these two groups both with their own organisation and elected body. The city council (Tribunale di San Lorenzo) was made up of six representatives of noble *seggi* and of one office from the 'popular' side, the *Eletto del Popolo*. His competences covered mainly four areas: the city's political representation, the administration of the city's heritage, the management of public supplies, urban police (retail, roads, hygiene, building work etc.). See: Faraglia, 'Le ottine e il reggimento'; Muto, 'Gestione politica e controllo'; Marín, Ventura, 'Les offices populaires'.

Piazza del Popolo's decisions: they gathered with the ten *consultori* and the *Eletto del Popolo* in San Agostino convent's cloister thus representing the whole of the *popolani*. Consent from the majority of captains (that's 15 out of 29) was needed to endorse any measure, with no involvement from the *consultori* who were only summoned to attend.

Their military functions such as raising citizens' militias when the city was faced with barbaric incursions still held a significant place in the 16th century. But they gradually gave way to more general public order duties, in which various *capodieci* supported the *capitani delle ottine* (also called *capitani di strada*). We don't know anything about how these *capodieci* were appointed, but we can realistically assume they were chosen directly by the *capitano* under the supervision of the *Eletto del Popolo*.

The lawyer Gaspare Di Blasio's plea, *Ragionamento intorno all'Ufficio de' Capitani delle Ottine della Fedelissima Città di Napoli* (August 1739), written to defend the *Piazza popolare*'s dignity and legitimacy following a conflict with Vicaria's tribunal shows their authority was truly acknowledged by the local population who regarded them as the their 'Padri, e Protettori (fathers and protectors)', and by their co-citizens who held them in 'grandissima stima, e venerazione (very high esteem and veneration)': this authority rested on the respect they had earned in the neighbourhood through the support they gave and the wise advice they shared within this close community. Hence they were able to intervene in the most sensitive family affairs with discretion, thus avoiding major scandals and other disturbances thanks to the confidence ordinary people entrusted them with. The *capitano* was the guardian of families' honour and secrets. Common folks therefore readily complied with his decisions and conciliatory arbitrations whereas they would have feared social disgrace had their domestic affairs been dealt with in front of a magistrate in a court of law.

The magistrates from the Camera di Santa Chiara, the kingdom's supreme court, were asked to adjudicate on the *capitani*'s policing powers in 1741 following the conflict between the *piazza popolare* and Vicaria's tribunal, an ordinary civilian and criminal court.¹¹ Following an incident between two shopkeepers in June 1739 the *strada degli Orefici's capitano* had 'de viva forza (forcibly)' incarcerated one of the troublemakers and had sought the support of Vicaria tribunal's *sbirri*, the court's armed forces, to do so. As soon as the court judges found out they liberated the imprisoned troublemaker and went to trial for *usurpata giurisdizione* (usurpation of jurisdiction), claiming the *capitani* were not authorised to exercise any judicial function as they had done when incarcerating their *ottine's popolani*. In so doing, they disputed their competences in terms of public safety and denied them any legal endorsement for coercive interventions on individuals, like temporary imprisonment whilst awaiting trial. Camera di Santa Chiara's magistrates gave a clear answer on the judicial level: Vicaria's tribunal was the only competent authority on 'ordinary jurisdiction', that is the power to incarcerate and punish delinquents. However, they did not dismiss *capitani's* regular requests to the tribunal's armed forces to incarcerate violent individuals within their neighbourhoods. Besides, the-

¹¹ Archivio di stato di Napoli (thereafter ASN), Camera di Santa Chiara, Bozze di consulta, vol. 47, inc. 15, 'Piazza del Popolo chiede se i capitani di strada possono esercitare atti di giurisdizione col carcerare i popolari delle loro ottine'.

re were numerous testimonies on the subject. In their eyes, it was an 'abuse' tolerated by past governments. Therefore, if the judicial issue was firmly settled, denying the *capitani* any judicial powers, even the so-called *bassa* ones that Gaspare di Blasio defined in his pro-*capitani* discourse as 'those only used to pacify small conflicts, like the ones occurring within a specific neighbourhood' (p. 24), magistrates were however of the opinion to keep the same *modus operandi* for practical reasons, as long as Vicaria's tribunal was immediately informed in order to ensure appropriate follow-up action was taken, and as long as this formal point of law was kept from the general populace. Indeed, without the threat of incarceration *capitani's* powers would have been undermined and disorderly behaviour would have been dangerously increased. The Camera di Santa Chiara thus acknowledged the captains' power to temporarily incarcerate local folk from their neighbourhoods on law enforcement grounds before handing them over to the judicial system as an effective means of lower classes' social control, but not any truly delegated judicial authority (the captains did not have their own army, prison, court or tribunals, nor could they issue a warrant or pass any sentence).

The senior judges also emphasised *capitani's* preventive roles, whereas court officials only intervened once the disturbance had occurred. They knew their neighbourhood's inhabitants very well as they came from the same background and were therefore well respected. They were thus in a better position to uphold public peace and avoid social unrest than the tribunal's subordinates. Gaspare di Blasio highlighted that such men 'were necessary for Republics', and, even 'more importantly for some of the local people' (p. 41). There were two essential requirements in his eyes for the *capitani* to be able to properly fulfil their policing duties: to come from the local populace and neighbourhood where they were to exercise their functions whilst also serving as the 'loyal vassals' of the prince.

We can assume that the elective process would secure popular confidence even though we know nothing of its origins or of its specific modalities. As well as imparting the charge with increased prestige and authority, their eventual nomination by the prince from the voted list of names integrated the *capitani* into the monarchical system. Gaspare di Blasio notes that when Charles de Bourbon acceded to the throne in 1734 he had asked the *Eletto del Popolo* to recall and replace the *capitani* as their loyalty was no longer assured.

Throughout the 18th century, the traditional election of *capitani* by *ottina's* family chiefs – the *complateari* – doesn't seem to be in decline or challenged. On the contrary, two affairs related to these elections and brought up to the kingdom's supreme court, the Camera di Santa Chiara, show how attached local populations were to this expression of popular choice, and their substantive participation in these procedures. In both cases, a number of inhabitants disputed the designation of the *capitano* and therefore his legitimacy. The government consulted Camera di Santa Chiara's magistrates about an appeal brought forward by the *Eletto del Popolo* dating 14th April 1760 attempting to remove the *capitano* of the S. Pietro Martire *ottina* called Pennarola from office. Thirty-seven *complateari* had requested the election of a new *capitano*, partly because of Pennarola's

disability and partly because of his recurring absences from the *ottina*. These arguments were supported by the priest of S. Arcangelo dell'Armieri and by a number of *arte de tiratori d'oro*'s master craftsmen who testified that Pennarola would travel daily to Lavinaro road to melt gold for the purpose of his trade. Sixty-two other *complateari* however supported Pennarola: 'for many years, he has carried out [his duties] with diligence, charity, vigilance and concerns for the common good [...] even though he had to be away from his *ottina* for a few months to nurse a broken leg'.¹² But no longer had he recovered that he had moved back to the *ottina* in his son Andrea Pennarola's house.

In 1778 the *complateari* from S. Giovanni Maggiore *ottina* challenged the election of a *capitano* called Raffaele Spasiano on the grounds it went against traditions: captains indeed always had to be well-educated and wealthy family chiefs from the *ottina*. Raffaele Spasiano did not meet these criteria. Rather than electing someone of a similar background to the deceased, Biagio Pastena, who came from a well-off family with a good upbringing, a young and single shopkeeper had been promoted with the help of his brother. Worse, he did not even live in the *ottina*, when there were plenty of doctors of law or affluent merchants amongst the *complateari* who would have been worthier of this charge. However, the *Eletto del Popolo* supported the new captain claiming the disgruntled arguments were inconsistent, as he was 'of a good birth with honest and healthy manners, of many talents and with useful abilities'. He also owned a house inherited from his father at the heart of the *ottina* and he lived only a couple of steps away from its bounds. He even tacitly invited the sovereign to stand firm on these issues, which, in his opinion, were prompted by private interests, as was the case with Giulio Carrano, the *capitano* from Sellaria's *ottina* who had been contested because he was not born in Naples.¹³

These documents inform us on the entity formed by an *ottina*'s *complateari*, and on the popular participation involved in the choice of a *capitano*. In 1760 for instance no less than 99 family chiefs decided to come forward to take side for or against their *capitano*. Furthermore, we can observe that although elections should theoretically take place every six months, as is underlined by G. C. Capaccio at the beginning of the 17th century, some actually remained in office for years, which tends to show the respect and notability they had earned amongst the local inhabitants. The charge also seemed to be de facto easily passed on from one member of a family to the next. In the second case the deceased *capitano*'s fratello called Stefano appeared, in some people's eyes, to be the best candidate as he was a 'wealthy and well-educated family chief with solid experience'. This reveals the ideal profile according to popular values: a man born in the city, who had raised a family, who lived in the *ottina*, or better still, who owned property in the *ottina*, who belonged to the *ceto civile*, who was master craftsman from a prestigious guild, or a merchant, perhaps even from a law-related background or from a liberal profession. Criteria of residency, stability, deep-rootedness and reputation thus formed the cornerstones of this territorial social control internal to the common folk.

¹² ASN, Camera di Santa Chiara, Bozze di consulta, vol. 239, inc. 18.

¹³ ASN, Camera di Santa Chiara, Bozze di consulta, vol. 136, fol. 50.

These documents show that the *popolani* organisation did not seem to be declining in the last third of the 18th century and 'popular' charges still held much social dignity and appreciation. We know a lot less still of *capitani's* subordinates, the *capodieci*. We find them in very few archive documents, taking care of certifications to be signed by the *capitano* for his inhabitants (certificate of poverty, passports to get out of the kingdom etc.), or operating on the spot. Based on archives destroyed in 1943, Benedetto Croce for example recounts how from 1778 onwards *capodieci decano*, Mariano Ceriello, a cobbler by trade, supported the architect in charge of realising the new promenade on the town's western shore, the Passegio Reale (Riviera di Chiaia), and how he repeatedly managed to settle popular discontent triggered by the works and the changes incurred to the uses of various parts of the area.¹⁴

If in Naples these popular charges were inscribed in an almost immemorial tradition, or at least recorded from the end of the Middle Ages by the authors of the time, other elected policing functions were created ex-novo in the 18th century particularly in Iberian territories.

II. L' ALCADÍA DE BARRIO: AN ELECTIVE OFFICE AT THE HEART OF THE REFORM MOVEMENT

Social tensions in 1760 Spain took the form of worrying popular uprisings for the government, in particular with the Motín d'Esquilache in Madrid between the 23rd and 26th March 1766.¹⁵ This episode had important consequences on the reform movement; as a result, people's representatives were introduced within local government through the 1766 local authority reforms, and through those of the urban police in 1768-69. They were elected on a territorial basis corresponding to neighbourhood communities with a view of easing social tensions and improving the administration, the justice system and the police.¹⁶ Both reforms are mostly owed to the propositions of one of Castille's Council's *fiscales*, Pedro Rodríguez de Campomanes, who was convinced bridges needed to be built between government instances and the poorest members of society. To do so, popular figures needed to be associated with law enforcement. On the one hand, they materialised in the form of *diputados del común* who were elected through a two-level voting procedure to counterbalance to weight of local oligarchies within local authorities.¹⁷ On the other, *alcaldes de barrio* were new types of police auxiliaries introduced in Madrid and distributed across the city according to new territorial boundaries between cuarteles dividing the city into 64 *barrios*. The capital's policing services were thus reinforced through the assistance given by *alcaldes de barrio* to the Sala de Alcaldes de Casa y Corte judges, who were in charge of the city's public order alongside the municipali-

¹⁴ Croce, 'La villa di Chiaia', p. 35.

¹⁵ López García, El Motín contra.

¹⁶ Guillamón Álvarez, *Las reformas de la administración*. Cuesta Pascual, 'Los Alcades de Barrio'. Martínez Ruiz, *La seguridad pública*. Pablo Gafas, *La sala de alcades*.

¹⁷ Hernández, 'La democracia ilustrada'.

ty. On the 6 October 1768, the Cédula profoundly transformed the organisation of the Madrid police through the introduction of these new agents whose modes of designations and specific charges were defined more precisely in the *Instrucción* published on the 21 October of the same year.¹⁸ This text remained in effect until 1801 when the *alcalde de barrio's* designation modes were quite importantly revised. Just one year after their creation in Madrid, they were introduced in other Spanish cities and all the way to imperial territories, through the law of 13 August 1769, starting with towns comprising *audiencias* and *chancillerías* (courts of second instance).¹⁹

Alcaldes de barrio's functions were similar to those of Naples' *capitani di strada*: arbitration of small conflicts, information, ensuring compliance with police decrees, monitoring the poor, the foreigners, wanderers, abandoned children, as well as road maintenance and street lighting. Differences were mostly threefold.

To begin with, a larger role was given to paperwork within policing practices. Whereas *capitani di strada* were not bound to any regular record, *alcaldes de barrio* were instructed to regularly update the registration of all inhabitants under their jurisdiction (*matrícula*). This task was considered to be their most important duty. It was their responsibility to visit each house and family to indicate each *vecino's* name, status or profession, as well as registering his children and servants. *Instrucción's* article 9 stipulated how these registers should be kept: one sheet per house 'leaving as much space as possible to record transfers throughout the year'. Of course, this monitoring applied to foreigners too which the government insisted upon especially after 1789. Alongside general population registers, *alcaldes de barrio* indeed kept other registers like the one for hostels (*posadas*), which were regularly inspected. Owners had the obligation to provide a written record of their clients' entries and outings. Furthermore, *alcaldes* were bound to make a daily log of what had happened in their *barrio* and of the nature of their interventions in books called *Libros de hechos*.

Moreover, whereas we have seen how there were sometimes uncertainties lingering over *capitani di strada's* jurisdiction, that of *alcaldes de barrio* was clearly specified: small judicial powers (called *pedanea*) enabled them to arrest people on the spot and to incarcerate them until a local judge could take action. This power was represented on their badges, which showed a *vara de justicia* (rod of justice) with an ivory knob, to ensure they would be accepted and respected.

Lastly, the judicial apparatus rigorously regulated these new *alcaldes de barrio*. Admittedly they were sworn in and registered at the town hall after their election but they were placed under the direct authority of the *alcalde de la Sala*, their neighbourhood's judge, who gave them the detail of the streets under their jurisdiction, their *barrios*. Compa-

¹⁸ Instruccion que deben observar los Alcaldes de Barrio, que para el más expedito, y mejor gobierno se han de nombrar, ò elegir en cada uno de los ocho Cuarteles en que se divide la Población de Madrid, en cumplimiento de lo mandado en la Real cedula de seis de este mes, expedida à Consulta el Consejo de diez y nueve de Setiembre de mil setecientos sesenta y ocho, y lo que han de egecutar los Jueces Ordinarios en las causas de Familias (Archivo Histórico Nacional [thereafter AHN], Consejos, leg. 504).

¹⁹ Marin, Exbalin, *Polices urbaines recomposées*.

red to *capitani di strada* who were only accountable to popular municipal organisations and could not be assimilated to Vicaria's tribunal subordinates, even though they relied on this tribunal's armed force when needed for law enforcement purposes, the *alcaldes de barrio* clearly appeared as Sala's new subordinate police and judicial corps as they were answerable to their neighbourhood's judge for their actions and obeyed his orders. But whereas other police and judicial subordinates directly attached to the tribunals such as the alguazils were law graduates and held a commercial office, there were no education prerequisites for the *alcaldes de barrio*. The office was open to all *vecinos honrados* ('honourable citizens'). Social recognition, reputation within the neighbourhood, and an acknowledged role as a small popular dignitary took precedence over technical competences or administrative experience. The duties involved brought no financial reward, but expenses were covered through the impoundment of a third of the fines. However, they represented a heavy workload that was hardly compatible with the daily exercise of another trade. Thus needing a certain level of affluence, as well as enough education to fulfil the requirements of written procedures, these charges were mostly occupied by former militaries, minor administration officers, lawyers, sometimes *hidalgos*, but also by a few shopkeepers and craftsmen.²⁰

The advantages and disadvantages of electing those holding this office through popular vote were soon debated, first in Madrid, and then in the other cities where these charges had developed. Besides, there was some wavering at the time of the establishment of this new provision. Were there to be financial conditions placed on the right to vote (as was the case for the *diputados del común*)? The Sala had announced its preference for a two-level voting procedure, proposing the *comisarios electores* should vote to designate the *alcaldes de barrio* at the same time they voted for the *diputados del común*, or that they should at least propose a list of names validated by the *alcalde del cuartel* for a final nomination by the Council. It is Campomanes' choice that eventually prevailed: a direct vote with procedures overseen directly by the *alcalde de cuartel* who presided over voting assemblies in the parish.

On numerous occasions and especially in 1781 and 1782, the Sala observed that 'citizens failed to take part'.²¹ Historians have sometimes interpreted this poor attendance as citizens' disinterest in these elections and therefore as the explicit failure of the reform movement in its wish to increase citizen participation. Yet we mustn't overlook the prior informal arrangements that could precede *alcalde de cuartel*'s regular assembly, especially since administrators precisely deplored agreements and transactions conducted about the votes outside of the public arena.²²

Elections were normally held yearly in December. They were challenged on numerous occasions, not only by the Sala magistrates who did not support them to begin with, but also by some *alcaldes de barrio* themselves. The case they made shed light on why this

²⁰ Cuesta Pasqual, 'Los Alcades de Barrio'. Marin, 'L'alcalde de barrio à Madrid'.

²¹ AHN, Consejos, Libro de gobierno 1371, fol. 147v.

²² Hernández, 'La democracia ilustrada'.

elective process was abandoned on the 26 January 1801 in favour of a nomination procedure by the Sala from a list of three chosen by Charitable Delegations²³ for their 'better aptitudes and conduct'.

From 1773 onwards eight *alcaldes de barrio*, all lawyers by trade came forward in the name of the entire corps to ask the government to change the system.²⁴ Basing their legitimacy on 'the practical experience acquired through the exercise of their functions', they asked to be able to carry out their duties for at least two to three years rather than one, and for their charge to bear higher prestige and dignity in order to constitute a properly recognised rank within an administrative career. Moreover, they demanded that only the neighbourhood's dignitaries (*los de mayor distincion*) had the right to vote and that domestics and other small trades they regularly inspected should be excluded. The higher authority opposed their proposal to limit popular voting. Excluding all inhabitants under inspection by *alcaldes de barrio* indeed would have meant leaving out 'todas las clases del Pueblo (all popular classes)', including shopkeepers and craftsmen, in favour of the more affluent and educated members of the neighbourhood. However, this charge had been created precisely to ensure people's interests would be represented within the police and judicial institutions thanks to popular choice and acknowledgment. Castille Council's *fiscal* insisted that 'honour' was not just attached to nobility. He argued that there was honour attached to each social condition residing in socially approved conduct and in collective esteem and consideration: 'an intelligent, enthusiastic and good workman is just as much an honourable citizen as a Great from Castille or a Graduate from Salamanca'.²⁵

The charge was normally held for one year but re-elections were frequent which shows that some of these subordinates managed to build and to keep the legitimacy and consensus needed to continue exercising their authority. Sacramento's *alcalde de barrio* Eugenio Ahumada Guillen del Castillo for example was first elected in 1776 in Palacio's *cuartel* and later re-elected for five consecutive years between 1781 and 1786. In 1786, the *cuartel's* *alcalde* Manuel Sisternes y Felin specified in writing that the charge had been granted 'through a unanimous vote from all citizens who took part in the elections'.²⁶

Sala's judges made an issue of the popular vote on different occasions in the 1780s and 1790s as they denounced the plotting and manoeuvres fomented at the time of elections. They offered to take control of the subordinates' designation in order to counteract these disturbances. They suggested the *cuartel's* *alcalde* selected three persons who were the most qualified to exercise the duty and who could be trusted. The *barrio* would vote from that list. Charity delegations on the other hand recommended the charge should be held

²³ 64 Charitable Delegations (one in each *barrio*) were created following the Auto Acordado of 13 May 1778. They were made up of the *alcalde de barrio*, of a clerk designated by the parish priest and three of the *barrio* inhabitants.

²⁴ AHN, Consejos, leg. 833, exp. 15, quoted in Guillamón Álvarez, 1980.

²⁵ Ibid., fol. 852v-853r., 6 December 1773.

²⁶ AHN, Consejos, Libro de gobierno 1375, fol. 861 sq.

for longer, two or three years, to be able to count on more experienced *alcaldes de barrio* who would be better trained to efficiently police the poor.²⁷

In 1791 Juan Antonio González de Velasco, the *alcalde de barrio* from las Descalzas Reales and accounting officer for Monte Pio Militar, put a new reform plan forward. Once again the elections were at the heart of the highlighted dysfunctions: 'they generally benefit worthless individuals or people busy [with their trade], and usually at the request of these same elected officers'.²⁸ The *alcaldes de barrio* therefore tended to come from the 'Republic's lowest ranks' whilst *letrados* or administrative officers were rarely designated when, according to author, they were the only ones to properly exercise these functions even though they often turned them down.²⁹

We witness similar challenges to electoral systems in other Spanish cities. In Grenada for instance the *alcalde de barrio* Lorenzo Alarcón (Magdalena's parish) disclosed regulation breaches, bribes and intrigues during the election process on two occasions (1782³⁰ and 1784). He wrote that candidates bought the votes, gathered voters in taverns and paid for food and drinks as the poor outnumbered the wealthy. That is how *alcaldes de barrio* who could not read or write would be elected whereas other types of citizens, like lawyers for instance, were much better suited to take on this charge.

Enlightened Spanish reformers therefore thought introducing non-professional *subordinates* within urban police forces through popular vote was a good way of upholding public order within a people who had demonstrated its capacity for rebellion in 1766, as their authority was acknowledged and accepted by the working classes. As the middleman between the judicial administration and the urban common folk, and as the direct emanation of neighbourhood communities who had designated individuals with whom they could identify, the *alcalde de barrio* was an invaluable source of information about the local population and its most marginal elements thanks to his deep local rooting. Yet the lack of financial reward and the exposure to popular discontent meant the charge was not attractive to 'honourable people'. On the 16 November 1787 the Secretary of State Floridablanca suggested that as *cuartel's* *alcalde*, Sala's judges should make sure trustworthy persons, 'honest and educated men', held these functions. But they should be careful not to seem to be depriving the people of the freedom of choice they had been granted through the 1768 legislation.³¹ At the same time, some of the elected *alcaldes de barrio* who came from the judiciary or the administration saw this professionalisation as a way of keeping the duty for themselves in order to climb the social ladder within the ranks of the state apparatus.

²⁷ AHN, Consejos, Libro de gobierno 1371, fol. 147v.-148r.

²⁸ AHN, Consejos, Libro de gobierno 1382, fol. 1489r.: '[...] se hacen aquellas por lo común en personas o miserables, o ocupadas y no pocas veces a solicitud de los mismos elegidos'.

²⁹ The law stipulated someone elected to be *alcalde de barrio* could turn down the charge for professional or health reasons. These refusals caused delays in the taking of the office, which seemed like another drawback of the system.

³⁰ AHN, Consejos, leg. 833, exp. 15, quoted in Guillamón Álvarez, 1980.

³¹ AHN, Consejos, Libro de gobierno 1377, fol. 1341-1342.

The new low-level policing function created in 1768 initially meant to embody the 'notability of the neighbourhood' which enjoyed a certain level of trust within the communities it directly represented, following a rather widespread model of Ancien Regime municipal police. But it became a social resource for *letrados* looking for government employment. Despite the resistance from certain enlightened administrators such as Campomanes, this social demand led to these agents' full integration within the capital's police services at the beginning of the 19th century. Their nomination now took into account candidates' training and experience in other administrative branches (judicial, military, tax etc.) and replaced the elective process.

III. CONSOLIDATION OF THE ADMINISTRATIVE FRAMEWORK AND PROGRESSIVE PROFESSIONALIZATION OF ELECTIVE POLICE CHARGES

The electoral system introduced in Madrid in 1768 was definitely overridden after 30 years 'for not achieving the goals that were set due to the abuses and frauds it generated'.³² The government had wavered between two approaches for a long time. On the one hand, voting seemed the best way to keep the office's popular acknowledgement and representation, and to guarantee the efficiency of these social mediators, trusted as they were by the lowest classes of urban society. On the other, making sure these popular choices corresponded to governmental views would prevent these duties from falling into unlawful hands or from being hijacked by criminals. There is no doubt the *alcalde de barrio* could take good advantage of his position in the neighbourhood to consolidate his authority, extend his influence and enlarge his client base, as a trade-off for the time spent settling cases and disputes which bore a financial cost and sometimes led to strenuous conflicts with local inhabitants. Pressures and manoeuvres to obtain votes were therefore relentless. They preoccupied the authorities who wanted these duties to be carried out by men well aware of the judicial administration's procedures and perfectly obedient to the judges' authority (*alcaldes de cuartel*), essential as they were for social control. If the Spanish authority eventually gave up any electoral procedure to reinforce their control over these subordinates, what was it like elsewhere at the end of the century?

The *dizeniers's* case in Toulouse studied by Jean-Luc Laffont shows a similar tendency: in the second half of the 18th century the municipal authority attempted to regain control over this 'petite magistrature populaire' (small popular judiciary) for social regulation purposes.³³ Originally merchants or craftsmen, these municipal agents acquired the status of *commissaires des quartiers* in 1783. Endowed with new powers such as being able to fine or to carry out search warrants and identified by a uniform, they were now

³² Decreto de los Señores de la Sala plena mandando que los Señores Alcaldes de Cuartel pasen oficio a las Diputaciones de Caridad de sus respectivas personas capaces de desempeñarle y de este modo recaigan la elección en las mas idóneas conforme a lo resuelto por el Consejo (AHN, Consejos, Libro de gobierno 1391 (1801), fol. 802).

³³ Laffont, 'La police de voisinage', in particular pp. 28-29.

better regulated by the administration. Admittedly they were not elected but nominated for life by the municipality, yet in the first half of the century they still possessed a certain amount of autonomy, sometimes even forgoing magistrates' provision letters. As a 'somewhat educated middle-aged man who exercised a sedentary activity with an already well-established family and profession and therefore deeply rooted in his *dizaine*',³⁴ the *dizenier's* typical profile rightly corresponded to the traditional values expressed for example by S. Giovanni Maggiore's *ottina's completeari* cited above to define the type of individual eligible to become *capitani di strada* through popular vote. This centrality tends to disappear as their professionalization starts to develop.

Other Italian situations show the continuation of electoral procedures in the last part of the 18th century for offices of social control at the neighbourhood scale. In Lombardy towns for instance *anziani di parrocchia* were directly elected by family chiefs in each parish to carry out these duties for life or until their resignation. Livio Antonielli has shown how this office was gradually integrated into stately bureaucracy in Milan even though it started out as the expression of local society.³⁵ *Anziani di parrocchia* were indeed part of a local judicial authority to begin with, before being placed under the central judicial authority of the Magistrato di Sanità, to which they were bound until it was finally suppressed in 1786. They maintained their elective dimension but it was the authorities' remit to summon the inhabitants to the elections, to ensure they were conducted according to the current regulations, to gather the necessary information about the candidates to check their eligibility – they had to be older than 20 or 25 after 1757, born in or resident of Milan's Duchy for over ten years, and with no judicial record. The election was followed by a nomination with the attribution of the corresponding patente, which conferred the *anziano* his legitimacy. Participation in elections was not insignificant overall: Livio Antonielli estimates it represented between 5 and 33 per cent of all family chiefs. The authorities generally respected the neighbourhood's choice. At first it was mostly craftsmen who tended to seek out this office, prestigious as it was within urban society. As the duties increasingly fell within the remit of the central authority, the nature of the functions shifted toward that of tribunals' subordinates. An institutional redefinition procedure was launched in 1775 but did not succeed. It aimed at steering the *anziano di parrocchia* towards more professional policing functions through the granting of a small allowance. This ever more stringent administrative framework probably made the charge less prestigious amongst the working classes than in Naples where this type of elected function had preserved its political dimension: the 29 strong *capitani* corps was more representative of people's interests than the *Eletto del Popolo* himself, and asserted the honour traditionally attached to these functions as they were the direct and autonomous expression of the local population.

In 1779 however a new law was passed aimed at reorganising the functions of Vicaria's tribunal police force through the redeployment of judges and their staff across new po-

³⁴ Ibid., p. 25.

³⁵ Antonielli, 'Tra polizia sanitaria'; see also his contribution to this volume.

lice headquarters created for that purpose.³⁶ The government also used this law to increase their control over *capitani di strada* and to connect them more tightly to the judicial police and the commanding judges of the capital's main justice and police royal tribunal. The law indeed specifically summoned *capitano di strada* and *capodieci* to obey the orders of neighbourhood judges for all matters relating to public peace and summoned them to provide all necessary information about their *ottine's* population, as no one knew them better. The idea was not to dispute the city's privileges and remove *capitani* from the traditional municipal organisation, but to reposition their office under the royal authority that could then guide the actions of all individuals with policing powers and manage the entire surveillance apparatus.

In a report dated February 1798 captain general Francesco Pignatelli, an urban police superintendent, highlighted *capitani's* lack of accountability to neighbourhood judges and their reluctance to collaborate. *Scrivani* (court clerks) and other tribunal subordinates on the other hand could not find any suitable alternatives to such invaluable sources of information for the police about the local population.³⁷ The police superintendent's tone is strikingly different to that of *Piazza Popolare's* documents and reflects the many grievances from police commissioners that fill up 1790 police archives. By then *capodieci* are described as the 'worst in their profession and more ignorant than one can imagine'³⁸ which shows both the gap between neighbourhood judges and these municipal subordinates and the difficult relationships between Vicaria's police authority and the traditional framework of social control. The police superintendent specifically targeted *capodieci*, who held the lowest popular charge, as they escaped all royal control and were just nominated by the *Eletto del Popolo*. Yet '*Capodieci* have much legal influence since the delinquents in the *ottina* are, or are known to the *Capodieci*'. The superintendent did not hide his outrage at seeing these individuals having risen from the lowest layers of society to the rank of guardians who could even issue their *ottine's* inhabitants with passports. He therefore invited the sovereign to 'resolve this matter so that [...] the choice of *capodieci* fell entirely within the remit of the Gran Corte and neighbourhood judges, to ensure these duties were held by honest shopkeepers and provided neighbourhood judges with additional resources in identifying the bad citizens'.³⁹ 1799 revolutionary events interrupted this reform movement aimed at transforming these popular charges into police auxiliaries for *giudici commissari*.

Cases studied here show electoral procedures were still very much operative in supplying popular charges of social control and urban neighbourhood management in the 18th century, whether these were long-term traditions as was the case in Naples or recent creations as in Madrid. We witness a certain amount of appetite from the working class for these social regulatory functions, embedded as they were in local forms of community organisations. They contributed to the recognition of popular honour and, even

³⁶ Alessi, *Giustizia e polizia*; Marin, 'Découpages de l'espace'.

³⁷ ASN, Archivio di Polizia, Consulte, 26, fol. 25.

³⁸ ASN, Archivio di Polizia, Consulte, 23, fol. 735.

³⁹ ASN, Archivio di Polizia, Consulte, 26, fol. 25.

though they brought no financial reward, they provided the individuals who held these offices with some advantages, like boosting their public reputation, building up their social networks for the benefit of their families and lineage, and sometimes like in Madrid for instance, they led to social promotion through a career in the administration. Furthermore, governments wished to centralise police forces' command all over and to dispose of a well-supervised professional corps that could be easily controlled by a firmly established hierarchy. At the same time, we witness the authorities' increasing distrust or even disregard for these functions when exercised by figures issued from the lowest strata of society. However they did acknowledge the absolute necessity for social mediation and the gathering of information within big cities' working classes, which were hardly accessible to those coming from the outside. Some of the envisaged solutions proposed to redefine these charges within a stronger institutional framework embedded in a hierarchical chain of command and subjected to a series of professional controls. This movement for the professionalization of subordinates favoured by the authorities intertwines with other trends developing across the people of the cities. The latter is of course far from socially homogenous. Many social struggles find a stage within the police reforms of the second half of the 18th century as can be witnessed in Spanish cities, where some of the upper social classes attempted to keep the *alcaldes de barrio* functions for themselves, and to exclude individuals from lower classes in order to hold on to these new resources. These complex evolutions therefore cannot be attributed to the sole actions of the central authorities and beckon for larger comparisons with other local situations whilst remaining attentive to the singularity of each urban culture within which these movements take place, in order to broaden this panorama.⁴⁰

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Community involvement in the administration of public health in the State of Milan in the 18th century

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The history of the police force and territorial control has significantly moved forward over recent decades, both quantitatively and qualitatively. The result has been a remarkable surge in the understanding of the topic and, above all, a general sharing of themes and issues among scholars from different parts of the world. Although this osmotic process has enabled us to reflect on individual regional situations while preserving a solid thematic unity, there still exists an entrenched, long-established, ongoing interpretive resistance that still pervades some of the basic premises, despite an historiographical output which, in many cases, has challenged it.

Even today there remains a polarity, albeit somewhat blurred, between the images of the police forces of Britain and France. In a by now dated work, David Bayley states: 'The British police are generally perceived as being honest, approachable, trustworthy, and helpful. They are viewed with respect and an admixture of affection. Generally they work as individuals, not in groups. They carry no firearms, and are commonly non-authoritative and non-punitive'. Compare this to Bayley's description of their counterparts across the Channel: 'The French police have a reputation for being efficient, indefatigable, and omniscient. They are considered individually to be brusque and rather unapproachable. They are armed, feared, and disliked, though they are not considered especially corrupt'.¹

The above descriptions focus primarily on the different behaviour of the respective police officers: the British are viewed as friendly, helpful and unarmed; the French, on the other hand, as harsh, feared, unapproachable and armed. According to Bayley, the genesis of this perception can be traced back to the traditional opposition between France as the cradle of absolutist institutions, and England as the champion of decentralization and respect for local autonomy. The stereotypical picture of the 'good bobby' has long been popular in Europe, and vestiges of this belief can still be found today. The bobby is a bit gruff but protective and reliable, constantly on the citizen's side, and capable of ensuring respect for the rules without ever seeming to be threatening. This depiction of the British police has long found fertile ground in Italy where the people once had to cope with a very different police force; a force that Bayley describes as follows, in rather crude terms that are certainly far from true today: 'Italian police are considered corrupt, pu-

¹ Bayley, 'The Police and Political Development', pp. 53-56.

nitive, and unscrupulous. They are feared and disliked. One would not consider going to them for assistance except in time of great stress. They are armed'²

This portrayal of the British police officer has been adequately updated by modern historians, most of whom have revised its more mythical aspects.³ Other more traditional historians, however, have focused on the organisation of the police force, and more generally on the bureaucracy of the Ancien Régime, with one eye on the burgeoning of these institutions from the grassroots up, and the other on the detection of a central authority represented by them. The outcome has been the continued existence of what I would call an enduring distorted vision. In other words, rather than seeking similarities and analogies within diverse policing authorities across countries, the general preference has been to highlight their differences and divergences. Hence, there has been a tendency to treat the British and French examples as two somewhat antithetical, and therefore not easily equitable, entities. On the same wavelength, research conducted into other European examples has often emphasised the contrast between one or other extreme case. Thus an interpretation of any specific case is approached from a preconceived viewpoint and, in a certain sense, converted to an ideology.

The sketch that I have attempted to create here is in many aspects far-fetched, but purposely so in order to more clearly define the contrasts. In point of fact, many recent studies have opened the way to diverse and much better balanced perspectives. In particular, if we consider French historiography in relation to the history of the police force, we see the emergence in recent years of a tendency to challenge the view from the centre in an analysis of these institutions. An example can be found in the interpretation of Vincent Milliot, in his work on an authority that primarily represents the strengthening in France of an embryonic police system, created and managed by the state, i.e. the *Lieutenance générale de police* in Paris.⁴ Milliot deals with this issue by focusing initially on the practice rather than on the rules, and in so doing he recedes from a strong national model as an unavoidable point of reference. The activity of the police force can then be viewed as a practice which is continuously adapting to a societal context, and is therefore only clumsily relatable to formal conceptualizations. Hence contributions such as Milliot's lead to research options which substantially alter traditional interpretations, both in relation to the Parisian *Lieutenance*⁵, and more generally to the police forces in the Ancien Régime, or, were we to use a term perhaps more appropriate for the period, to territorial control.

That said, it remains true that the most methodical historiography on the development of controlling institutions from the grassroots up comes signally from Britain and North America. This gives rise to the perception, still strong today, of the singular nature of

² Ibid., pp. 58-59.

³ See a comprehensive treatment of the topic in Storch 'The Plague of Blue Locusts'.

⁴ Milliot, *Un policier des Lumières*.

⁵ In addition to Milliot's aforementioned work and other contributions on the same theme, Piasenza (*Polizia e città*) and Vidoni (*La police des Lumières*) have made, and continue to make, substantial inroads into this topic. Regarding the difficulty of describing police work from a formal perspective, see: Napoli, *Naissance de la police*.

the British position. A notable example in this respect is undoubtedly a work by Michael Braddick, *State Formation in Early Modern England*,⁶ which revolves around the theme of the strengthening of State power in modern-day England. Taking inspiration from categories generated within anthropological studies, Braddick identifies a 'typology of rule, which places the state at one end of a spectrum, distinct from such other means of regulating social life as the tribe, lineage or warrior band'.⁷ This allows him to raise a question. Although the central authority of the state between the sixteenth and seventeenth centuries was still able to exert only relatively slight territorial and societal control, nonetheless its territory was studded with numerous offices of various kinds, which were endowed with extensive coercive powers. These offices, irrespective of whether or not they were state-run, represented a political power that was extensive and authoritative. The author can thus claim that: 'collectively, these offices constituted a 'state' in the sense that they were part of a territorially bounded and coordinated network, which was exclusive of the authority of rival political organizations within those limits'.⁸ Starting from these premises, the creation of an effective state power therefore constitutes a progressive acquisition, on the part of the state, of powers generated in its territory.

British historiography is rich with studies dealing with this reality in its concrete organisation and development. In particular, I would like to refer to the works of Joan Kent⁹ who, taking her cue from the lowest agencies of territorial administration, deals with the complex world of petty officials initially employed by such agencies. Starting with the parish vestries, Kent examines a wide variety of officials: constables, petty constables, churchwardens, overseers of the poor and night watchmen; all of them officials who combined their lowly appointments derived from the parish vestries with a formal authority conferred from on high to perform a number of tasks, including coercive ones, of consequence to the citizenry.

Kent frequently emphasises a basic ambiguity that characterised these offices: they were filled by individuals who had to comply with orders from higher authorities while simultaneously responding to the needs of their own community, which often remunerated their work. Thus they were called upon to serve the state, while at the same time attempting to look after local interests. A significant share of tasks relating to truly typical social problems of the modern age, namely poverty and vagrancy, fell to the lot of the parish vestries. Following the passing of the Elizabethan Poor Laws or the 1699 Vagrancy Act, these administrative structures were compelled to take on ever more complex responsibilities, involving tasks unable to be implemented without the work of these low-ranking officials.

In more recent times, the strengthening of these peripheral administrative structures has therefore been considered as a crucial step towards a heavier presence of public authority over the territory. Although the growth of state power between the 17th and 18th

⁶ Braddick, *State Formation in Early Modern England*.

⁷ *Ibid.*, p. 15.

⁸ *Ibid.*, p. 18.

⁹ J.R. Kent, 'The Centre and the Localities'; 'The English Village Constable'; *The English Village Constable*.

centuries was indisputably due to the creation of new institutions, it was mainly connected to a 'willingness on the part of parish elites to implement the state's policies.'¹⁰ This willingness to cooperate with government agencies through the appointment and support of a network of low-ranking officials can be seen, therefore, as a fundamental condition for the growth of the control and efficiency of state action.

Again according to Braddick, 'in this view, state power is not something 'central', but rather something that is extensive'.¹¹ At the same time, the fact that this power has its origins in the grassroots does not signify that it cannot grow. It is necessary simply to consider the development of state presence over a territory, but not as a process brought about solely, or predominantly, by institutions created from above almost as if it were a type of obligatory perspective. Rather one should focus on the ways in which state power, irrespective of its origin, underwent changes and became more direct. Therefore, state power in the British situation seemingly had no connection with the increasingly intrusive presence of state institutions, as has often been claimed by historians in relation to other scenarios.

One further detail needs to be mentioned in relation to these low-ranking officials. Their authority was conferred upon them, as stated above, from on high, directly by the sovereign, through his magistrates. It was in fact they who would deliver the writs (authenticated by the appropriate warrants) which enabled these lower-ranking officials who had been appointed or elected locally to exercise the necessary powers, including that of law enforcement.

In light of these reflections, the specific nature of the British situation could easily be the subject of debate. As it happens, these low-ranking officials do not appear dissimilar to the law enforcement agents known as *esecutori*, who are to be found everywhere, in large numbers, in the Europe of the Ancien Régime. The collection of essays *Entre justice et justiciables*, edited by Claire Dolan,¹² provides a multifaceted picture of such individuals. In one of the essays, Robert Jacob writes that 'behind the office of each juge magistrat stands a whole army of tipstaffs, police constables, gendarmes, a prison network, a huge coercive web on which the authority of justice can rest'.¹³ These officials could be quite different from each other, both in regard to the tasks they performed and to appointment procedures, as well as in regard to their respective social standing. Some could be considered authentic precursors of the modern police, as for instance the multifarious world of sergeants or archers in a French context, or the notorious *sbirri* or *birri* in Italy, as well as the *alguaciles* of Spain. Others could appear to be far removed from tasks involving control and coercion, but a methodical analysis will reveal, even if less prominently, their law enforcement powers.¹⁴ The whole class of *esecutori* was in any case licensed to perform a number of tasks, granted by a higher authority through a formal procedure.

¹⁰ J.R. Kent, 'The Centre and the Localities', p. 365.

¹¹ Braddick, *State Formation in Early Modern England*, p. 14.

¹² Dolan, *Entre justice et justiciables*.

¹³ Jacob, 'L'icteurs, sergents et gendarmes', p. 38.

¹⁴ Let us quote the *campari camerali*, who in the Po Plain had to regulate the diversion of canals to faci-

An Italian case study provides insight into the extent to which *esecutori* could differ from one another, even within the same department. It also examines how a specific category of functionaries, appointed at a local level and forced to divide their loyalty between a higher authority and the local community, was not confined to an English context. This case will be studied by taking as a reference an important government agency of the state of Milan, the *Magistrato di Sanità* (Department of Health) between the 17th and 18th centuries.

This Magistracy, also known as the *Tribunale di Sanità*, was one of those typical government departments that characterized the *Ancien Régime*, and its *modus operandi* was tied to a strictly judicial procedure. As the executive responsibilities of functionaries and those of the judiciary had not at that time been separated, a judicial procedure was the only way for a *Magistrato* to deal with issues falling within its remit. Therefore the administrative functions, as a fundamental part of the activities of magistracies, were structured as a kind of extension of the primary judicial function. Any determination issuing from these institutions possessed the characteristics of a judicial sentence. For its execution it was therefore necessary to delegate authority to officials so that they could implement coercive measures against those on the receiving end of the sentence.¹⁵ In this capacity, the *Magistrato di Sanità* employed a large number of *esecutori*, both for the purpose of law enforcement and to carry out administrative functions.

The *Magistrato di Sanità* was a long-established department. Founded in 1534 (in keeping with Italy's early development in this area)¹⁶ it lasted until 1786. The responsibilities of the *Magistrato* were both wide-ranging and of great import, and consequently it wielded substantial power. Its primary function was to exercise authority over all matters that concerned the protection of the State of Milan from contagious diseases. At that time bubonic plague was the greatest threat, but considerable attention was also paid to the spreading of animal epidemics. Responsibility in this area entailed ongoing written communication with its counterparts in neighbouring states, in order to keep abreast of any new epidemics. The *Magistrato* also had the authority to stop or limit the traffic of humans, animals and goods inside the state, and when necessary to totally close the borders, at times for lengthy periods. In the struggle against contagion, it was the role of the *Magistrato* to ensure that a specific procedure be followed in all cases of death, by way of a medical report certifying that the demise was not 'suspicious', as the phrase went.¹⁷

litate irrigation in the countryside. They also had to watch over navigation in the canals, and in both cases their task was to monitor all infringements committed by users, and where necessary to impose fines (Antonelli, 'Gli ambigui confine della polizia').

¹⁵ The clearest description of the functioning of the administrative system under an *Ancien Régime* can be found in Mannori, Sordi, *Storia del diritto amministrativo*.

¹⁶ On the early development of these institutions in Italy see: Cipolla 'Origine e sviluppo degli uffici di sanità'.

¹⁷ All so-called sudden deaths were regarded as suspicious. Deaths were considered to be sudden when they occurred within four days subsequent to a state of health. In all such cases a medical certificate had to be exhibited, stating the cause of death and ruling out any possibility that the illness may have been contagious. See, as an example, the Archivio di Stato, Milan (thereafter ASM), Sanità, p.a., c. 12, the decree of the *Magistrato di Sanità* of 26 August 1693.

Other responsibilities of the Magistrato related to environmental hygiene, i.e. the maintenance of the city's sewerage network, the cleaning of public areas, pollution control, hygiene and quality control of food, and finally, a major issue: pauperism.

The office of the Magistrato di Sanità in Milan had jurisdiction over the whole of the state territory. It operated directly through its own structures and personnel only in the territory of Milan Province, whereas in the other state provinces it operated through health departments under its control. These provincial health offices exercised uniform control over the areas within their respective jurisdictions, while complying with the ordinances issued by the central magistracy.

Permanent positions that guaranteed security of tenure and a departmental salary were held by only a limited number of functionaries within the Milan magistracy. Basically we are talking about eight people: three city commissioners (*commissari urbani*), two *apparitori* (city commissioners of a lower rank), one porter, one commissioner for beggars and one lazaret caretaker. To these we should add some rural commissioners (*commissari forensi*), so called because they operated outside the city walls. On average there were ten of them, although this number varied seasonally. The total number of *esecutori* would however grow out of all proportion when including the network of local functionaries who enabled the Magistrato to operate on the city's outskirts. The Magistrato would direct each community to appoint one or more health deputies according to the number of residents.

These lower-ranking officials fully meet the requirements we are seeking. They were selected and appointed by their communities from among their members, they were remunerated by those same communities (when they were paid at all) and were empowered by a magistracy (in this specific case by the Magistrato di Sanità) to carry out a series of tasks.

The only directive the Milan Magistracy would issue to the communities was that they select 'capable, and suitable'¹⁸ candidates. All other details were left to their discretion. Choices were therefore entirely up to the communities who were free to operate as they saw fit, depending on the circumstances. Some appointments were decided by the local notables, others through formal meetings of the local council, and yet others according to a strict adherence to the principles of direct democracy, i.e. through a meeting of heads of families, summoned by the pealing of bells, known as *convocato*. Small neighboring villages too would occasionally elect a deputy as an area deputy (*deputato di pieve*).¹⁹ The chosen officials were generally of varying social status according to the size of the community that elected them, but nevertheless they were all reasonably well educated, and always literate. In larger towns (such as Abbiategrasso might have been) four health deputies were appointed in 1751. Among their number there undoubtedly would

¹⁸ ASM, Sanità, p.a., c. 42, Editto a stampa, 18 July 1730.

¹⁹ This term traditionally signified an administrative division within a diocese, which later came to define just an area of territory.

have been one person of noble status and another who bore the title of doctor:²⁰ in other words, they would have belonged to the local *élite*. In the performance of their duties, deputies had to be able to read and understand the messages forwarded to them by the central magistracy, to network with physicians and surgeons, and to convey to that same Magistracy reports relating to pathologies etc.

As previously mentioned, these officials were granted the authority to perform their duties directly by the relevant magistracy, at times either by the central Milan Magistracy or by other provincial health offices in its jurisdiction. This authority was granted by way of a document called a *patente*. Deputies were thus conferred with ‘sufficient authority to sanction anyone at all, and people in regard to health... and to impose fines of up to 25 scudi.’²¹ In other words, they possessed coercive powers in relation to third parties, and were able to use such powers in actions that were far from insignificant. During a health emergency, as testified by the *patenti*, they were authorized to erect roadblocks on transit routes without prior notice. These were manned by armed personnel in order to cut off at the source the transit of people or animals likely to spread the disease within the State. Similar and immediate measures could be adopted vis-à-vis suspicious cases of disease among farm animals, by isolating the diseased animals and quarantining whole herds. Other than in emergency situations, which required prompt intervention, deputies were charged with the monitoring of public compliance with all directives issued by the *Magistrato di Sanità*; in other words, with all aspects of public health for which the *Magistrato* was responsible. Naturally, the *patente* mandated that deputies report without delay on any restrictive measures to the *Magistrato*, whose responsibility it was to ratify or annul any decisions, as well as to carry out any further assessments.

There were numerous active health deputies in the state, a few hundred at the very least, despite reports that, in contravention of orders, some communities had made no appointments or had neglected to renew their *patente*, which had a validity of three years. These functionaries then, appointed locally and not professionally qualified, were charged with the implementation of an important share of the monitoring of public health by the state of Milan.

In times of real crises in the public health sector, viz during serious epidemics affecting humans or animals within the territory of the state, or whenever state borders needed to be closed due to reports of an epidemic outbreak in the proximity, then not even the thick network of health deputies was sufficient. In such circumstances, the *Magistrato* would resort to another cohort of law enforcers. I am referring to the network of *commissari forensi* I mentioned above.

These officials fell into the category of higher-level functionaries. They were no longer selected by the local communities at grass-roots level, but appointed directly by the *Magistrato di Sanità*, who remunerated them adequately. They could be divided into two ca-

²⁰ This is an official notice of appointment, dated 21 April 1751, submitted by the Chancellor of the Abbiategrasso Community to the *Magistrato di Sanità* (ASM, *Sanità*, p.a., c.12).

²¹ See two almost identical *patenti di delegato*, one from 1745 and the other from 1753, in ASM, *Sanità*, p.a., c.12.

tegrities, the first consisting of permanent staff based in the office of the Magistrato. Their number varied from time to time but in the first half of the 18th century it remained constant at around ten. Their offices were strategically placed in townships close to obligatory routes that had to be traversed by people and goods entering the State of Milan from abroad. In the first instance the officials were charged with the extremely delicate task of checking the mandatory documents, known as *bollette di sanità*, that accompanied all people, goods and animals and contained details of their route and previous health checks. In order to cover expenses incurred by the Magistrato they were also responsible for the collection of health levies payable on all merchandise crossing the border. Finally, it was their duty to prepare and ensure that the required periods of quarantine be observed for people, goods and animals during public health emergencies. In addition, they carried out a cleansing procedure, known as a *spurgo*, that involved the sterilization and elimination of 'malignant corpuscles' (as bacteria causing contagions were often described) in accordance with the techniques available to medicine at that time.

The second category comprised the *commissari forensi* who were recalled at times of greatest need; that is, whenever contagions at the border were confirmed and effective protection had to be provided for long periods of time. The main function of these officials was organizational, insofar as they were responsible for the creation of complex control networks at the borders, designed to prevent entry into the state of those trying to evade checks along the regular routes. They were therefore granted the necessary authority to recruit on the spot armed guards, and when necessary to mobilize the local citizenry for tasks involving active vigilance. The choice of individuals selected in this second category of *commissari forensi* was also made by the Magistrato, who remunerated them from its own budget. It is obvious that these positions were limited to the duration of an epidemic, hence when the crisis ended the *commissari* were promptly discharged. Their number varied according to the gravity of the situation, however it never exceeded that of the permanent *commissari forensi*.

The office of the *commissari forensi* was not, therefore, modelled on that of the officials selected directly by their local communities, as in the case of the health deputies. Nonetheless, an examination of their *modus operandi* in relation to the powers granted them by the Magistrato reveals that in this case too the local communities were involved. As indicated above, when access to the State had to be barred for health and safety reasons, the priority was to intercept anyone attempting to use minor roads in order to bypass the roadblocks set up along the main routes.

This called for extreme care and attention. Admittedly a quota of illicit border crossings could be tolerated in the fight against smugglers and their goods, but it was not acceptable in the context of public health: just one infected person would be sufficient to spread the contagion. Hence the utmost effort was expended to block even the most remote routes. The task of the *commissari* therefore was to direct all those with detailed knowledge of certain areas, such as mountain communities, to prepare themselves for the setting-up of surveillance networks. In 1681 Giovanni Paolo Cambiagio, an official delegated by the Magistrato to the protection of borders, wrote: 'my only concern was

to block off those mountain passes in Helvetia, Rethia and Vallese, which enabled people travelling down from Germany to bypass those guarding the straight route and stealthily enter the aforesaid areas. It was also to make sure that our state borders would be most diligently protected not by foreigners, but by our subjects, so that neither persons nor goods originating from infected or suspect countries could be imported into our State. These were the two main tasks allocated to me by the most honourable Tribunal.²²

In other words it was the 'subjects' who received from the Magistrato, through an intermediary, the authority to use force and weapons against third parties to prevent them from entering the State. The communities obeyed these orders by resorting to ancient customary practices of self-defense. This was possible as the regulations for bearing arms allowed residents in border areas to keep weapons at home, thus enabling them at a moment's notice to deal with any emergency.²³ Moreover, the law stipulated that on behalf of the general public the communities must compulsorily defray, at their own expense, the cost of a number of defensive measures.²⁴

Finally, there was a further category of functionaries, qualified to serve through a patente issued by the Magistrato di Sanità, which will be worth examining within the context of the present paper. I am referring to the anziani di parrocchia (parish elders), who had existed in the city of Milan since the Middle Ages. They could still be found, under various titles but with similar roles, in all Lombardy townships as well as in other centres in Italy and elsewhere.²⁵

The title anziani di parrocchia has no religious connotations. A parish should be viewed as a territorial entity or district, or more precisely as a community of residents, after the style of an English parish. In the case of Milan the title was undoubtedly derived from the procedures followed for the election of these officials. Indeed, an elder was chosen by means of a ballot to which all heads of families belonging to his individual parish were summoned. The anziani spread out to occupy many areas around the city. In the period to which we are referring here (between the second half of the 17th century and the first half of the 18th century), approximately 75 parishes fell within the remit of an anziano.²⁶

The parish elders thus represented an ancient form of self-management on the part of a social body, designed to ensure the delivery of a number of services in the common interest of parishioners. Among the diverse tasks entrusted to them was, in particular, that of reporting all deaths occurring within their jurisdiction, in order to detect suspicious

²² ASM, Sanità, p.a., c.4, undated report (probably from 1681).

²³ Antonielli, 'La licenze di porto d'armi'.

²⁴ From among many, see: ASM, Giustizia punitiva, p.a., c. 15, edict of 7 July 1724.

²⁵ For Milan: Antonielli, 'Tra polizia sanitaria.' There are reliable reports on the presence of anziani also for Mantua: Pagano, "Questa turba infame", p. 48 and p. 68. As for the identification of similar institutional figures in remote areas, see: Buono, 'Anziano, calpixqui, shaykyh, nanushi'.

²⁶ This number was subject to minor variations during the period, at which time we notice some mild attempts at rationalisation. In some cases the areas covered by the more important parishes could be subdivided into two territorial units known as anzianerie, and conversely two parishes covering a smaller area with only one anzianeria could be merged. In some cases, one anziano was in charge of two anzianerie for specified periods.

cases of contagious diseases in the shortest possible time. It was, in fact, the central role taken on by the elders in this specific context that resulted in their progressive absorption into the newly created *Magistrato della Sanità*.²⁷ Their dependency was formalized through the issue of specific *patenti di anziano*.

The *patenti* authorized the *anziani* to administer all tasks pertaining to the *Magistrato* in their allocated territory: monitoring public cleaning services and reporting infractions; monitoring the observance of legislation concerning beggars and checks on any unauthorized presence (i.e. of those coming from areas outside the city) in some households; the compilation and safekeeping of lists of residents suitable for recruitment into the city militia. Above all, as mentioned above, they were given total responsibility for administering all health-related procedures linked to deaths, from time of death to burial. This involved forwarding all documentation (including the death certificate stating cause of death) to the registrar for deaths, namely a notary on the *Magistrato's* staff. There was no limit on the duration of an *anziano's* tenure but neither was there provision in the budget of the *Magistrato* for any salary to be paid to him.

Thus we find also in the case of parish elders an office arising from the local community, in this case even through direct election by heads of families. The functions of the *anziani* were based on *patenti* issued by a state magistracy. If we look at the total network of officers who made it possible for the *Magistrato della Sanità* to carry out its tasks,²⁸ in most cases we discover functionaries known as *esecutori*, elected, as stated above, by the local community. They were not remunerated by their superiors and derived their authority from a delegation of power granted to them by the magistracy. All of this parallels the English model discussed in the present paper.

As an example, we can look into the procedure for granting a specific authorization to proceed to some English lower-ranking officials (such as churchwardens and overseers of the poor).

They were elected by their local community at the parish level, and we find documents that set out the same series of delegated powers, specifically though the granting of warrants. As we can read in a Form of the precept from the high constable to the churchwardens, &c. for returning lists of jurors [...]: 'By virtue of a warrant from the clerk of the peace of the said county [...] unto me directed, you are hereby required to make out, before the first day of September next, the true list in writing in the form hereunto annexed, containing the names of all men.'²⁹

We return at this point to revisit our initial assumption, i.e. a search for compatibility between the forms of territorial control characteristic of England and the Continent.

²⁷ Before the creation in 1534 of a *Magistrato della Sanità* with jurisdiction over the entire State of Milan, there was already an *Ufficio di Sanità* for the City of Milan, to which the elders reported even then (*Vaglienti* "Noluit ire ad visum").

²⁸ For the sake of completeness, reference should also have been made to the *commissario dei poveri* (commissioner for the poor) and his staff. These functionaries were totally equivalent to the law enforcement officers.

²⁹ Willcock, *The Office of Constable*, p. 30 and p. 108.

We have analysed this in regard to the State of Milan, but it can also be detected in France and other States within the Italian peninsula. This has led to a serious re-evaluation of the theory of the individuality of the English model (we are obviously referring here to the centuries of the so-called Ancien Régime). While this may be plausible, complications arise when we return to the example of the State of Milan, especially when attempting to describe a trajectory such as the one suggested by Braddick for England; i.e., the State's progressive acquisition of powers which had evolved from the ground up. It would perhaps be more accurate to say that such a process is identifiable in part, but through a series of significant distinctions.

The first factor to be considered is that the State of Milan, though endowed with extensive autonomy in the running of home affairs, was nonetheless dependent on external powers: initially the Spanish monarchy and then, from 1706 onwards, the Austrian monarchy. Precisely as a result of the encouragement and political decisions of the Austrian monarchy (especially after 1748), a number of institutional measures allegedly undermined a power structure built on the primacy of metropolitan aristocracies, the so-called patriciates, and in particular on the primacy of the Milanese patriciate. This aristocracy, through trade-based and professional bodies (above all, the Collegio dei Giureconsulti in Milan) occupied the highest positions and controlled most of the state magistracies, which obviously included the Magistrato di Sanità. Starting from the activation of the Land Registry (*catasto censuario*), known as *catasto teresiano*, the mid 18th century saw the introduction of a series of reforms that, within half a century, were destined to alter both governmental institutions and their relationship with local communities.

On one hand, the creation of a land registry made it possible to determine a level of taxation based on the capital value assessed for each individual property. On the other hand, it served to officially ascertain the identity of the wealthiest landowners, area by area. This facilitated the establishment in 1755 of a uniform administrative model, known as the *convocato*, based on the rights and duties of representation relating to the highest assessments. Meanwhile, the task of taking a census, set and monitored by the Census Bureau, had led to the appointment of a network of officials to perform this role. From 1751 onwards, a number of functionaries known as *cancellieri delegati* were recruited. They were selected, appointed and removed by the same Bureau, whose task it was to keep and conserve the records of each census.³⁰ These officials, selected and monitored by the central authority, were gradually allocated other responsibilities, one of which was the selection of the *deputati di sanità* (who nevertheless were still chosen from within the local community).

A short time afterwards the system of government through magistracies also began to be affected. Suffice to recall the creation in 1765 of the Supremo Consiglio d'Economia and its conversion in 1771 to the Magistrato Camerale, an institution entirely different from its homonymous predecessor, which ceased to exist. The new institution no longer had the characteristics of a semi-autonomous magistracy under patrician control that

³⁰ Ostinelli, 'I cancellieri del censo', pp. 461-462.

the old Magistrato Camerale had possessed for over two centuries. In 1786, the Magistrato di Sanità ceased to exist, within the framework of institutional reforms dictated by Joseph II.

The Magistrato di Sanità, in the period between mid-century and its abolition, had perceived clear signs of its own gradual restructuring. Observe, for example, the decision in early 1774 to close down the group of *deputati di sanità*, i.e. the network of officials that had enabled extensive measures of control within the State. They were replaced by mayors and consuls, i.e. officials who were elected from within the local community, who however had no direct relationship with the Magistrato di Sanità.³¹ Or further, we may quote an order that had earlier on in 1772 been issued by the Prince of Kaunitz, to the effect that *commissari forensi* were not to be replaced when they died or ceased their employment.³²

These brief examples have been chosen from among many possible ones. They are instrumental in showing how the far-reaching reforms of the institutional structures, imposed by the Vienna regime with the sole support of the enlightened élites within Lombardy, were followed by changes also at the level of minor and peripheral offices. For the sake of completeness, we should also dwell on other government decisions that, during those years, would fundamentally revolutionise the network of offices within the state of Milan. There was, for example, the creation of the Court of Accounts in 1770, which withdrew the ability of the single magistracies to govern their own financial affairs, and consequently their ability to manage policy in regard to public offices. There was also the 1749 reform of public offices, which was followed by a ban on the right of succession in public offices, and finally by the suppression of *venalità* (hereditary transmission of offices), which had had a significant impact on the State of Milan in the 17th and first half of the 18th century.

This comprehensive reform package has always been positively assessed by historians, who have credited it with the rationalisation of overall government structures. They hold that this diminished the harmful effects of a system biased in favour of a patrician élite with a propensity to exploit government offices for its own corporate advantage.³³ It is not my intention to challenge here this kind of interpretation. I simply wish to highlight the fact that the system of government in the State of Milan, at least until the middle of the 18th century, was showing significant parallels with the English experience, through a huge reliance on the involvement of local communities. Hence, the diversities between different scenarios are not so much traceable to the alleged originality of the English model, as to the political and institutional conditions that permitted on the one hand its survival, and on the other an evolution that was to preserve substantial legacies.

³¹ ASM, Sanità, p.a., c. 66, circular of 1 October 1774 addressed to the *commissari forensi*.

³² ASM, Sanità, p.a., c. 46, letter from the Government of 31 October 1772, read out in the *congregazione* of 27 April 1776.

³³ See a comprehensive treatment of the topic in Capra, 'Il Settecento'.

Our analysis could also be carried out within the vast class of functionaries, which presented significant variations. We can repeat a rhetorical question posed by Catherine Denys: 'What do the following have in common? A judicial law enforcer paid for the pursuit of criminals, a resident obliged to keep vigil over his district by night, a notable or jurist who uses the police as a stepping stone to an administrative career, a returned soldier who becomes a village policeman?'³⁴ Indeed, apart from the notables and jurists, the individuals described here belong to the class of law enforcers, insofar as they were all authorized to perform various activities, including law enforcement, on the grounds of the specific powers granted to them by a magistracy.

The world of law enforcement agents in the State of Milan, then, presented structures of some complexity. At its core, it should be pointed out, the body of judicial enforcers on Italian territory was undoubtedly more numerous than its English counterpart. These *sbirri* or *birri*, as they were known, were not an expression of the local community, but rather an example of a bureaucracy. Due to their low-level policing role they were socially marginalized and tended to transmit their jobs down the line from father to son. Given their meagre wages, their conduct was motivated by the fact that they needed to seek remuneration for their work. They did this to a large extent by demanding payment from those they were pursuing in the course of their judicial duties.

These factors, which operated within the body of law enforcers, contributed to a decrease in the willingness of the community to implement certain tasks, thus giving rise to unequivocal differences in respect to the English situation. This, however, does not detract from the fact that in the State of Milan, at least until the first half of the 18th century, there was a solid presence of officials who carried out executive and law enforcement tasks. Their appointments were the responsibility of local communities, and the authority to perform those tasks emanated from the State government.

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³⁴ Denys 'Institutions, corps, serices', p. 37.

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Under the Eyes of the Committee of Reports: Local and popular involvement in the maintenance of public order under the National Constituent Assembly (France, 1789-1791)

Maria Betlem Castellà i Pujols

When the National Constituent Assembly learned of the royal flight to Varennes on 21 June 1791, it resolved to bring together the Committee of Reports and the Committee of Research with a view to ensuring the maintenance of law and order.¹ The Constituent Assembly decided that the two committees, which Louis XVI had denounced in the manifesto-letter he left before attempting to flee, should now work together.²

*The Assembly, by means of its committees, at all times exceeds the limits which it has been assigned; it is involved with affairs which are the sole remit of the administration of the kingdom and of justice, and in this way it is accumulating all the powers; through its Committee of Research, it even displays a true despotism which is more barbarous and insufferable than anything ever before seen in history.*³

Louis XVI railed against these committees because they had been responsible for overseeing the maintenance of public order and good order since 28 July 1789. The Committee of Reports was in charge of devising the most appropriate means of preventing outbreaks of disorder and of pacifying those that occurred, while the Committee of Research was responsible for locating the persons who had occasioned the disorder. The fact was that within a short time of the establishment of the National Constituent Assembly, the deputies had begun to receive hundreds of letters, reports, petitions and addresses requesting guidance on how to respond to the breaches of order that were taking place all over the country, and the creation of these two committees was its solution to this situation.⁴

However, just a week after the setting up of the Committee of Reports and the Committee of Research, which were to intervene in one of the most important competences

¹ This research has been carried out within the framework of the Study Group on Institutions and Political Cultures (XVI-XXI centuries) – (2017 SGR 1041) at Pompeu Fabra University (Barcelona). I should like to take this opportunity to thank Graham Thomson, the translator of this article.

² Archives parlementaires, vol. 27, p. 373.

³ Ibid., vol. 27, p. 381; note: all quotations have been translated by the editor from French into English

⁴ Castellà, *Revolució, poder i informació*, vol. 1, pp. 10-54.

of the executive power, namely the maintenance of civic order and peace, the Constituent Assembly decided, on 5 August 1789, that the municipal authorities and the bourgeois militias should be responsible for establishing good order, and that the government should provide military assistance to municipal authorities where necessary.⁵ Five days after taking this decision, on 10 August 1789, the Constituent Assembly adopted the first decree on the restoration of public order:⁶ the first martial law, and the first of the five decrees on the restoration of public order that would be adopted under this first Constituent Assembly.⁷ What was its goal?

The aim of this draft decree, or first martial law, was to ensure that the maintenance of law and order did not rest entirely in the hands of the King. It sought to assign this task to the municipal authorities and to make the mobilizing of the national militias, the *maréchaussées* and the troops a municipal responsibility.⁸ It was also designed to direct all the information that might be produced as a result of such disorder as occurred into the hands of the Constituent Assembly, so that it should know the source of the disruptions of good order incidents and the causes that occasioned these incidents and be able to impose exemplary punishments on those who took part in them. This information would largely be channelled to the Committee of Reports, and to a lesser extent to the Committee of Research. Within a few weeks of the start of the revolutionary process, and in less than fifteen days, the National Constituent Assembly had transferred to two legislative committees and to the municipal authorities a part of the management of the maintenance of public order.

I. IDENTIFYING THE PROBLEMS

From the summer of 1789 on, the municipal authorities and the bourgeois militias and the National Guards played an important role in the maintenance of law and order, and as a result of this the Committee of Reports of the National Constituent Assembly was assigned a considerable amount of work. Not only was it charged with determining the causes of the breaches of order that were taking place and with proposing the most appropriate means of pacifying them – above all, when those who should have quashed the disturbance failed to do so – but also with resolving all such conflicts as might arise between the various instruments of law and order at local and/or regional level: the Committee of Reports had to intervene in breaches of the peace caused by those entrusted

⁵ Archives parlementaires, vol. 8, p. 351.

⁶ Ibid., pp. 378-379.

⁷ Under the National Constituent Assembly five projects were adopted to restore public tranquillity: 10 August 1789, 21 October 1789, 9 February 1790, 23 February 1790 and 27 July 1791. However, Riho Hayakawa and Florence Gauthier consider that the Le Chapelier law (14 June and 20 July 1791) was a complement to martial law, in contrast to Michel Pertué, who does not so consider it (Hayakawa, 'La loi martiale', pp. 69-79; Gauthier, 'Triomphe et mort du droit naturel', p. 61 and p. 102; and Pertué, 'Loi martiale, état de siège et législation révolutionnaire', pp. 71-113).

⁸ Carrot, *Révolution et maintien de l'ordre*, pp. 82-83.

with the maintenance of order. In the words of Charles-Louis-Victor, prince de Broglie, a member of the Committee of Reports:

It is a matter of gaining revenge for the laws which have been violated, and of doing so against the very people who were supposed to protect and defend those laws.⁹

In this regard, the Committee of Reports was very soon engaged in mediating in conflicts between the old and the new municipal authorities; between the bourgeois militias and the future National Guards; between the municipal authorities on the one hand, and the national militias and guards on the other; between municipal authorities and their inhabitants; or between the municipal authorities and the districts and departments once these had been organized.¹⁰ The Committee of Reports had to ensure the maintenance of good order (political, economic and social) as defined by the decrees of the National Constituent Assembly, and in consequence it was permanently working to avoid any possible repudiation of the Constituent Assembly's decrees and to constrain all those whose obligation was to prevent or put down breaches of order at the local or regional level to act in accordance with the law. The Committee of Reports, in the manner of a concertmaster, was charged with fine-tuning the various necessary instruments to ensure that the order defined in the framework of the Constituent Assembly would be imposed everywhere and without opposition.

However, fine-tuning these instruments was not an easy task, as is indicated by the 190 reports submitted by the Committee of Reports to the National Constituent Assembly, or the 6,554 letters registered by the Committee.¹¹ Analysis of the reports presented by the Committee of Reports to the Constituent Assembly and the correspondence records of the Committee itself has shown that it confronted six main types of problem.

The first problem the Committee of Reports faced was that those who had to manage the maintenance of law and order in the local setting did not, for the most part, know how to proceed. They were uncertain as to what measures they should take, and as a result they wrote to the Constituent Assembly or directly to the Committee of Reports to request instructions.¹² In some cases these petitioners addressed their requests directly to the Committee of Reports, or sent a delegation to the Committee to jointly discuss what

⁹ Archives parlementaires, vol. 19, p. 514.

¹⁰ We have also been able to find a conflict in Strasbourg between the directory of the department on the one hand, and the district and the municipality on the other. Archives parlementaires, vol. 26, p. 675-676. This conflict would provisionally give Gaid Andro the following arguments in quotation marks: 'In effect, the administration of the district is rarely mentioned in the sources as being the cause of a conflict with the other layers of administration. Ultimately, between 1790 and 1792, the administration of the capital district almost always worked in close collaboration with the département. In case of tensions, the district administration is automatically associated with the departmental administration against the municipality' (Andro, 'Le procureur général syndic en son chef-lieu', p. 34).

¹¹ The records that contain the indications on the correspondence received by the Committee of Reports are: AF/I*/5-8 of the sous-série AF I Régime constitutionnel (1789-1792) and D*XL 58-61 of the sous-série D XL Comité des pétitions, dépêches et correspondances of Archives Nationales (CARAN) in Paris.

¹² On these difficulties, see: Biard, Les lilliputiens de la centralisation, p. 174.

decisions should be adopted to resolve the conflicts that were taking place.¹³ By April 1791, the civil commissioners sent on mission to the Lot department were aware of this problem, and noted that the science of public administration was as yet so new that administrators ought not be blamed for a lack of experience that would be acquired over time.¹⁴

It should also be acknowledged that the doubts and uncertainties of the municipal authorities were on occasion entirely justified, given that the Constituent Assembly was not or could not always be perfectly clear in its indications. For example: Where should the limits of zeal or patriotism that the Constituent Assembly demanded of the municipal authorities be set? Could private correspondence be opened, given that a draft decree adopted on 10 August 1790, established the privacy of correspondence as an inviolable right that could on no account be infringed?¹⁵ Confusingly, the opening of private correspondence by municipal authorities striving for act with the requisite zeal was not always reproved in any consistent fashion by the Constituent Assembly. Some municipal authorities were cautioned against opening private correspondence,¹⁶ others were approved in doing so,¹⁷ and others again, such as the Municipality of Saint-Aubin, were openly admonished.¹⁸

The second problem to be resolved by the Committee of Reports was that those responsible for the maintenance of law and order at the local or regional level often possessed neither the means nor the necessary instructions with which to do so. On more than a few occasions the municipal authorities or the militias that were required to take action communicated to the Committee of Reports that they found themselves abandoned by the executive power. They complained that they did not receive the necessary assistance, and were provided with neither troops nor weapons, or did not receive satisfactory instruction as to how to put into effect the decrees approved by the King.¹⁹

The third problem to emerge is that those who were charged with the upkeep of law and order in a given area were at times the actual perpetrators of the acts of disorder that were taking place. Everywhere in France there were breaches of order as a result of confrontations between old and new municipal authorities, as the former refused to stand down, or between the municipal authorities and the King's procurators and bailiffs, who annulled the decisions of the municipalities; of confrontations over the elections to appoint the new administration, mainly with regard to procedures and results; of confron-

¹³ Archives parlementaires, vol. 27, pp. 146-147 and vol. 22, p. 291.

¹⁴ Ibid., vol. 25, p. 301.

¹⁵ Ibid., vol. 17, p. 696. On the 25 July 1789, there was a debate on the inviolability of correspondence within the framework of the Constituent Assembly, which did not conclude with any decision on the part of the Constituent Assembly. Archives parlementaires, vol. 8, pp. 274-275. On the inviolability of correspondence under the Constituent Assembly, see also: Pierre Caillet, *Les Français*, p. 183.

¹⁶ Archives parlementaires, vol. 28, pp. 111-112.

¹⁷ Ibid., vol. 28, p. 550 and vol. 29, p. 762.

¹⁸ Ibid., vol. 17, p. 696.

¹⁹ Ibid., vol. 20, p. 295.

tations between different municipal authorities, usually in relation to grain supplies; of confrontations between the municipal authorities and the bourgeois militias and / or the future National Guards, with the armed corps refusing to submit to the municipal body; of confrontations between the old bourgeois militias and the new National Guards, and between the National Guards and the regiments, or between the National Guards and the volunteer bodies.

The fourth problem that presented itself has to do with the accusations of inaction, neglect, connivance and weakness levelled at the municipal authorities. For what reason? Faced with the breaches of order that occurred within their jurisdiction they often refused to adopt rigorous measures and were more inclined to conciliate, preferring not to send in troops, to proclaim martial law or to impose, as some departmental authorities demanded, a healthy terror.²⁰ However, as a result of their disinclination to mobilize the troops and in particular to proclaim martial law, they risked being regarded as complicit in the disturbances and accomplices of counterrevolution, intrigue and corruption. In light of all this, they were accused of weakness, of being incapable of doing what they had to do, and of being negligent. They were seen to be very close to their fellow citizens, and the same criticism was also levelled at the courts, which were suspected of not holding their friends and relatives accountable to the law.²¹ Indeed, municipal authorities were also accused of being the insurrectionary instigators of rebellions that numbered up to 15,000 insurgents.²²

The fifth of the six main types of problem is the fact that in some cases the municipal authorities responsible for ensuring the maintenance of law and order were denounced, 'kidnapped', driven into exile or forced to act in a certain way by a section of the local population. The authorities might be reported for failing to prevent disturbances and for not suppressing excesses and persecutions; for taking decisions such as restricting the free movement of grain or setting its market price or supply; and for supposedly committing irregularities in the electoral process.²³ It was apparent to the Committee of Reports that on some occasions the inhabitants of villages and countryside compelled the municipal authorities to second their deliberations and adopt their decisions, and even proceeded to dismiss them and hold new elections to appoint officials willing to do their bidding, or to force them to take the lead in acts of insurrection.²⁴ As a result, some municipal authorities that had refused to submit to the will of the local population had been persecuted, while others had chosen to go into exile.²⁵

The sixth and last type of problem that the Committee of Reports had to address was the tendency, on the part of the municipal authorities and others responsible for ensuring the maintenance of public order, to disregard the decrees of the National Consti-

²⁰ Ibid., vol. 15, p. 549; vol. 21, p. 152; vol. 23, p. 176, p. 308 and pp. 545-546; vol. 25, p. 291; and *Collection générale des décrets*, vol. 12, pp. 208-210.

²¹ *Archives parlementaires*, vol. 26, pp. 672-676 and vol. 27, pp. 317-318.

²² Ibid., vol. 28, p. 550.

²³ Ibid., vol. 8, p. 444; vol. 13, p. 96; vol. 15, p. 337 and vol. 16, pp. 148-149.

²⁴ Ibid., vol. 17, p. 165; vol. 18, p. 647; vol. 21, pp. 150-155; vol. 25, p. 281 and vol. 28, p. 548.

²⁵ Ibid., vol. 25, p. 278.

tuent Assembly and the measures it advocated for pacifying conflicts and to ignore the warnings and advice of the Committee of Reports.²⁶ The latter omission prompted an immediate response from the Committee of Reports, which threatened to inform the Constituent Assembly of the reprehensible conduct of those municipalities that persisted in rejecting its counsels and the measures it recommended.²⁷

II. MANAGING THE INFORMATION

The Committee of Reports acquired its extensive knowledge of the problems affecting the local management of the maintenance of public order from the huge volume of correspondence it received. The *Bureau des renvois* of the National Constituent Assembly passed on to the Committee 7,796 of the 40,282 letters it registered between August 1789 and 31 August 1791,²⁸ amounting to 19.35% of the correspondence received by the Constituent Assembly. Its ledgers list 6,554 letters registered, of which 2,215—34% of the total—were not attended to. What, then, was done with the remaining 66%? Were their contents communicated to the rest of the deputies? Did the Committee manage them on its own without consulting the Constituent Assembly, or did it receive assistance from other agencies?²⁹

The Committee of Reports was informed of the majority of disturbances that took place throughout France, and was assisted by other committees and commissions of the Constituent Assembly in managing the content of the letters it received, and a total of 1,209 registered entries—letters with their annexes—were processed with such assistance, especially from the Constitution Committee, the Finance Committee, the Committee of Research and the Ecclesiastical Committee. However, most of the matters dealt with by the Committee of Reports were managed not with the help of other agencies of the legislative power but with the assistance of the executive power: central (King and ministers), regional (provinces, departments and districts) and local. 1,973 registered items were managed with the help of the executive power without the involvement of the Constituent Assembly—45.47% of the matters the Committee decided to address. Almost half of the total. It is understandable, therefore, that the deputy François-Pierre Blin, who was a member of the Committee of Reports, should have sought to prevent the committees from referring to the executive power the matters they received without a prior pronouncement by the Constituent Assembly.³⁰

²⁶ Ibid., vol. 20, p. 423 and Archives Nationales, record D*XL45, pp. 187–188.

²⁷ Ibid., vol. 24, p. 732.

²⁸ Castellà, *Revolució, poder i informació*, vol. 3, pp. 763–963.

²⁹ All these questions are analyzed in greater depth in, Maria Betlem CASTELLÀ I PUJOLS, “Pouvoir et Information dans les mains du Comité des rapports: un comité-pendule entre les pouvoirs législatif et exécutif sous l’Assemblée nationale constituante (1789–1791)”, *Parliaments, Estates & Representation* (publié online le 31 mai 2019).

³⁰ Archives parlementaires, vol. 11, p. 24.

Of this great volume of information that the Committee of Reports received, how much did it consider should be communicated to the Constituent Assembly? The study of the six ledgers in which the Committee of Reports registered the correspondence it received indicates that of the 6,554 letters entered, it considered only 190 deserving of this treatment, a mere 2.89% of the total number of items registered. It thus appears that the Committee of Reports forwarded to the deputies whose task it was to legislate and to draft a Constitution for France less than 3% of the information at its disposal, a state of affairs that would go some way to explaining the refusal of the Left deputies of the subsequent Legislative Assembly to establish committees and their determination to read all the correspondence received.³¹

The deputies of the National Constituent Assembly thus had to deal with a committee that shared with them only a tiny percentage of all the correspondence it received, and in addition shared in more or less detail only the information it deemed more or less opportune: of the disturbances that were taking place and the tensions between the people responsible for managing the maintenance of law and order at the local level, it made known what it thought it most advisable or prudent to make known.

By way of example, this was the case with an incident in the Mâconnais. On 7 September 1789, the Committee of Reports registered receipt of a letter from Mâcon, written by members of the committee that had been set up there. The letter was entered in the ledger as No. 572 and then passed, in all likelihood, to the deputy Jean-Pierre Pezous for examination.³² The deputies of the Committee of Reports decided to communicate its content to the Constituent Assembly after meeting with the deputies from Mâcon to draw up the report. The findings of the Committee of Reports, entered in its register, were that the proceedings and deliberations of the Mâcon Committee were irregular, and that the members of this committee should confine themselves in future to detaining the criminals and placing them at the disposal of the courts of justice. What had happened?

The Parliamentary Archives indicate that following an intervention in the National Constituent Assembly by the deputy Louis-Jean-Henri-Darnaudat, member of the Committee of Reports, on 18 September 1789, the municipal officers of Mâcon and the committee in that city had set themselves up as a tribunal, and had pronounced and carried out death sentences against certain persons accused of looting and arson. The decision of the Constituent Assembly with regard to this was to forward the case to the executive power in order for it to be dealt with as soon as possible.³³ This decision was followed by a silence about what had occurred in the Mâconnais that continued until 22 March 1791, when François-Félix-Hyacinthe Muguët de Nanthou, another deputy and member of the Committee of Reports, presented a new report on the events in Mâcon to the Constituent Assembly.³⁴

³¹ Castellà, 'Monsieur André Aubusson'.

³² Archives Nationales, record AF/I*/5, pp. 57-58.

³³ Ibid., vol. 9, p. 41.

³⁴ Ibid., vol. 24, pp. 287-288.

What did Muguet de Nanthou make known to the deputies with this new report? Muguet de Nanthou represented to the entire Assembly chamber that a number of gentlemen of property in the Mâconnais, finding themselves threatened and assaulted by a gang of bandits, had come together to obtain redress for the aggressions they had suffered, and that as a result more than 200 people had been killed, leaving some hamlets uninhabited, and all without any combat having taken place or any of the avengers having sustained any injury. However, the gentlemen's vengeance did not end here. According to the account offered by Muguet de Nanthou, the triumphant property owners, not satisfied with the revenge they had exercised, had decided to arrest some thirty people, who were imprisoned and then tried by the same gentlemen, who converted the permanent committees of their towns into sovereign courts with the authority to judge, sentence and execute – as they duly did – 32 persons.

Why did the Committee of Reports, by way of Muguet de Nanthou, make a second report on these events, and in greater detail than on the first occasion, as was the practice when the victims were not poor citizens assaulted by gentlemen of property but property owners assaulted by common people categorized as bandits? For a very simple reason. The victims of the property owners' reprisals appealed to the National Constituent Assembly for justice when the vengeful gentlemen decided to take action against them again within the framework of the recently established courts for the aggressions they had suffered. How did Muguet de Nanthou justify the silence with which these events had been received? By pointing out that the Constituent Assembly had sought to avoid civil war by turning a blind eye on what had occurred and consigning the matter to the executive power.

The Assembly, which at that time was received news every day of these very disasters which were afflicting all parts of the kingdom, believed that the best way to stop this suffering and prevent a civil war from erupting was to make people forget about it; the Assembly therefore referred the affair back to the executive power, who attempted to calm things down. Peace ought to follow from this measure of prudence that you have indicated. The respective injustices of the two parties ought to have ended the quarrels; but those whose properties had been destroyed were waiting for the organization of the courts so they could register a complaint against the residents of the countryside.³⁵

From 28 July 1789 until 30 September 1791, the Committee of Reports had the final say on the information at its disposal, deciding at all times what was to be communicated and how, and determining what was worthy of being remembered and what was to be forgotten. And, as Muguet de Nanthou would once again argue to the Constituent Assembly on 22 March 1791, the affair in the Mâconnais was best forgotten, no doubt because the murders were committed by citizens anxious to defend their property, who had

³⁵ Ibid., vol. 24, p. 287.

murdered with the complicity and collaboration of those specifically entrusted with the maintenance of law and order.³⁶

III. RESOLVING THE PROBLEMS

The problems emerging in relation to the local popular management of the maintenance of law and order obliged the Committee of Reports to decide how it should respond to them. The reading of its reports and the study of the decisions in its records concerning the 6,554 registered items of correspondence referred to above make it possible to classify the Committee's responses into eight types.

First: To communicate the decrees of the National Constituent Assembly to where these could urgently be put into effect. Given that the Committee of Reports considered that the people were often mistaken and ignorant of the law and of the nature, extent and limits of liberty, it chose, especially during the first months, to send out some of the decrees of the Constituent Assembly. By way of example, the decree of the 10 August 1789, on the restoration of public order, the first martial law; the decree of the 4 August 1789, on the payment of taxes and charges, the supposed abolition of the Ancien Régime; the decrees on the free movement of grain, of the 29 August and 18 September 1789; and the decree of Fontainebleau of the 15 October 1789, on the election of the civil and police committees, which prior to the organization of municipal authorities and national militias would adopt only those decisions necessary to ensure the putting into practice of the decrees of the Constituent Assembly and the maintaining of order. Of all these decrees, by far the most widely disseminated was that of the 10 August 1789, which has been largely ignored and very rarely cited by a historiography that tends to regard the first martial law as corresponding to the decree of the 21 October 1789,³⁷ thus eclipsing the political-economic programme imposed in August 1789: martial law on the one hand, free movement of grain on the other. In other words, the liberal economic terror.³⁸

Second: To make contact with the ministers to ensure that they took heed of the matters the Committee sent to them and to supply it more information than it possessed or could have access to, and to urge the ministers to adopt a certain course of action in order to resolve the conflicts in question. The Committee of Reports called on the ministers to enact the Constituent Assembly's decrees, to facilitate the free movement of grain by eliminating any obstacles, to put down breaches of order, to mobilize the troops, to provide weapons and to put pressure on the justice system to process certain cases more swiftly. The Committee of Reports was in almost constant contact with the Garde des Sceaux, subsequently the Minister of Justice, during the whole period of the National

³⁶ Ibid., vol. 24, p. 288.

³⁷ Michel Pertué, 'Loi martiale', pp. 682-683; Gauthier, *Triomphe et mort du droit naturel*, pp. 56-66; Hayakawa, 'L'assassinat du boulanger Denis François', pp. 1-19; Lemarchand, 'À propos des révoltes et révolutions' p. 159; Neusy, 'Opinions et réflexions sur la loi martiale', pp. 27-48 and Hayakawa, 'La loi martiale', pp. 69-79.

³⁸ On the liberal economic terror, see: Gauthier, *Triomphe et mort du droit naturel*, p. 57 and 'De Mably à Robespierre', p. 122.

Constituent Assembly, and the contact with the ministers of War and the Interior was far from negligible. 1,106 items were managed with the aid of the ministers.

Third: To examine the measures and behaviours of those responsible for maintaining law and order in the local and / or regional context in the event that those measures and behaviours had generated a breach of the peace, and make its opinion and advice available to all those who needed it. However, in order to do this the Committee of Reports had to request the permission of the National Constituent Assembly, and, the Committee's president, the Abbé Baptiste-Henri Grégoire, did not obtain the necessary authorization until 5 February 1790.³⁹ A few weeks previously, on 28 December 1789, it had been decided that no committee could make its opinion public.⁴⁰ Not all deputies were in favour of the committees being allowed to make public statements without first consulting the legislative body.

Fourth: To approve or censure the measures and behaviours of those responsible for maintaining law and order in the local and / or regional context in the event, once again, that those measures and behaviours had generated a breach of the peace. The Committee of Reports could do this in two different ways, either by submitting a report to the Constituent Assembly, in the hope that the deputies would endorse their opinion, or independently, bypassing the Constituent Assembly and dispensing with the approval or consent of the deputies. In effect, public approval or censure was intended to set an example, with public endorsement constituting a mark of honour and public disapproval constituting the opposite. The Committee of Reports did not hesitate to censure all those who did not adjust their behaviours and measures to the will of the National Constituent Assembly.⁴¹

Fifth: To propose to the National Constituent Assembly the annulment of the decisions, measures and acts that were at the origin of many of the disturbances that had occurred. In its communications with the Constituent Assembly the Committee of Reports proposed that the legislative body declare null and void certain decisions taken by municipal authorities, their municipal officers or their permanent committees, or by the district and / or department directories; that it declare null and void certain verdicts issued by the courts; and that it declare null and void certain prison sentences and null and unconstitutional certain elections made.⁴² With the adoption of these proposals, the National Constituent Assembly ended up intervening in administrative and judicial functions of the executive power.

Sixth: To propose the suspension from office of persons responsible for maintaining law and order in the local and / or regional context. In the event of their refusing to proclaim martial law, engaging in inappropriate conduct or adopting provisions contrary to the decrees of the National Constituent Assembly a mayor, a group of municipal officers,

³⁹ Archives parlementaires, vol. 11, p. 436.

⁴⁰ Ibid., vol. 11, p. 24.

⁴¹ Ibid., vol. 18, p. 386

⁴² Castellà, *Revolució, poder i informació*, vol. 1, pp. 154-164.

an entire municipality and even a directory could thus be suspended,⁴³ and indeed it could be possible not only to suspend the existing municipality and convene a new election to replace it,⁴⁴ but also to intervene in this replacement municipality. In other words, the Constituent Assembly, the departmental authorities or the civil commissioners sent on mission could appoint a certain number of provisional commissioners to take temporary charge of municipal and / or departmental functions if a directory was suspended.⁴⁵ A result of this was that citizens came to be governed by persons whom they had not freely elected.

Seventh: To propose to bring before the Court of Orleans, entrusted with judging crimes of lèse-nation, persons suspected of committing this offence. The Committee of Reports considered that refusing to proclaim or apply martial law, deliberating against a decree of the Constituent Assembly and disseminating this deliberation, or failing to obey the decrees of the Constituent Assembly could constitute a crime of lèse-nation, and in light of this that the mayor, the municipal officials and the procurator of the commune of Douai should face such a charge for having refused to apply martial law;⁴⁶ that the president and the commissioners of the Assembly of Catholics of Nîmes could be so charged for their deliberations and by the communication of these deliberations to a large number of municipalities and corporations of craftsmen,⁴⁷ and that the *Chambre de vacations* of the Parlement of Toulouse could also be charged with rebellion against its decrees.⁴⁸ All of this was proposed in defence of the endangered Motherland.⁴⁹

Eighth: To inspire fear in all those who sought to defy or to thwart the decrees of the Constituent Assembly. As Noël-Joseph Madier de Montjau said on 15 August 1790, it was necessary to intimidate those municipal authorities that might be tempted to prevaricate.⁵⁰ Thus, with a view to ensuring public order and peace throughout France the Committee of Reports did not hesitate to use its speeches to the Constituent Assembly, its draft decrees and its proposals to direct the law in all its severity against those who attempted to disobey. According to the Committee of Reports it was necessary to prevent new crimes on the part of enemies and new errors on the part of citizens, and to protect the Constitution from new agitations. It was necessary to preserve the general will from being insulted and to require all persons to respect for or at least to keep silent about the Constitution. There was no place for false mercy or ill-conceived clemency for those who rebelled against the decrees adopted by the National Constituent Assembly.⁵¹

⁴³ Archives parlementaires, vol. 21, p. 154 and p. 703; vol. 23, p. 135 and vol. 26, pp. 676-677.

⁴⁴ Ibid., vol. 20, p. 202 and vol. 23, pp. 545-546.

⁴⁵ Ibid., vol. 17, p. 373; vol. 21, p. 622; vol. 23, p. 179 and Collection générale des décrets, vol. XII, pp. 208-210.

⁴⁶ Collection générale des décrets, vol. XII, pp. 208-210.

⁴⁷ Archives parlementaires, vol. 24, p. 524.

⁴⁸ Ibid., vol. 19, pp. 513-515.

⁴⁹ Ibid., vol. 19, p. 515.

⁵⁰ Archives parlementaires, vol. 18, p. 81.

⁵¹ Archives parlementaires, vol. 20, p. 138-139 and vol. 21, pp. 620-622.

However, the Committee of Reports was not solely dedicated to disseminating a discourse that sought to inspire fear and terror; it also, on certain occasions, pursued the opposite course, calling for clemency and the balm of forgetting. As we have already seen, the Committee of Reports, with its reports, its draft decrees and its proposals, indicated what was to be remembered and what should be overlooked, what should be punished and what should not. By way of example, the murder of M. Latierce by a group of misguided citizens called for severe punishment,⁵² while the murder of 232 people in the Mâconnais by a group of property owners was to be conveniently forgotten.⁵³ In the first case, leniency would be a crime, in the second, a necessity. In the first case, punishment was needed to enforce respect for property and guarantee personal safety; in the second case, clemency was necessary to stifle hatred and ensure peace. Which measuring rod or set of standards did the Committee of Reports work with? With double standards and a variable measuring rod?

IV. DEFENDING MUNICIPAL AUTHORITIES

Following the adoption of the draft decrees on 10 August and 21 October 1789, the municipal authorities had a key role in maintaining law and order. They were empowered to call out the national militias, the *maréchaussées* and the troops to put down disturbances, and the significance of this competence of the first order was lost on no one,⁵⁴ neither the legislative power nor the executive power, which in February 1790 attempted to regain control of the management of the maintenance of public order.⁵⁵ On 4 February 1790, Louis XVI intervened in the National Constituent Assembly to demand a strengthening of the executive power, to announce that new breaches of order were taking place, to invite the Constituent Assembly to join with him in order to pacify these disturbances, and to explain how much he was troubled by these reports of attacks on property and wealth and acts of violence against persons.

By what fatality, just as calm was starting to emerge again, has this new unrest spread through the provinces! By what fatality will we be spared from this new excess! All of you, join me to help stop them, so that all our efforts may prevent criminal violence from sullying these days in which the nation's joy is being prepared. You who by so many means can influence public confidence, shed light on the true interests of the people which have been deceived, the good people who are so dear to me, and - as I am assured when I am being consoled in my pain - who love me. Ah! If he knew how unhappy I am on hearing the news of an attack against the goods, or of an act of

⁵² Archives parlementaires, vol. 21, p. 152.

⁵³ Archives parlementaires, vol. 24, p. 287.

⁵⁴ Pertué, 'Le maintien de l'ordre.'

⁵⁵ Petitfils, Louis XVI, p. 742-745 and Félix, Louis XVI et Marie Antoinette, p. 515.

*violence against the people, perhaps they would spare me from this painful bitterness!*⁵⁶

The Right sector of the National Constituent Assembly supported the intervention of Louis XVI and was prepared to strengthen the executive power in the king's hands because it seemed that the municipal authorities did not dare to deploy armed force;⁵⁷ but the Left sector of the Constituent Assembly, with the Abbé Grégoire, president of the Committee of Reports, at its head, continued to trust in the municipal authorities to quell the disturbances that were taking place, and succeeded in passing a draft decree on 9 February 1790, that insisted on the putting into effect of the decree of the 10 August 1789, while warning the municipal authorities that if the disorders did not cease, the executive power would be obliged to deploy its strength.⁵⁸

This new draft decree on the restoration of law and order effectively neutralized the draft decree presented by the Abbé Jean-Sifferin Maury, of the Right sector, which sought to enable the mobilization of troops without a prior request to that effect by the municipal authorities.⁵⁹ However, the offensive in this sector was by no means over, and on 16 February 1790, it was renewed with the reading of a report that Louis XVI had wanted to bring before the Constituent Assembly. What was the content of this report? The same discourse as always: the monarch was suffering as a result of the disturbances that were taking place, but trusted that the municipal authorities would bring to bear, with courage and success, all possible means in pacifying the breaches of order.⁶⁰

Within a week of adopting the draft decree of the 9 February, which left the decision to call out of the national militias, *maréchaussées* and troops to the municipal authorities, their exercise of their responsibilities was once again being questioned. They were considered incapable of deploying public force – and at times of being unwilling to do so. What solution was to be adopted now? To convene the Constitution Committee and the Committee of Reports, and to make them submit a draft decree preventing the municipal authorities from refusing to employ all the means at their disposal to quash any breach of public order.⁶¹ What solutions did these two committees present on 18 February 1790? 1) That municipal officers should be suspended from their functions and declared ineligible for public office if they failed to proclaim martial law when the lives and the property of citizens and the collection of direct or indirect taxes were endangered; 2) that any municipal officer implicated in a disturbance would be declared guilty of prevarication and punished accordingly; and 3) that if the municipal officers were unwilling to call out the national militias, the regular troops or the *maréchaussées*, four notables of the Council of the Commune or eight eligible citizens could give the order.⁶² Was the

⁵⁶ Archives parlementaires, vol. 11, p. 431.

⁵⁷ Ibid., vol. 11, p. 537.

⁵⁸ Ibid., vol. 11, p. 538.

⁵⁹ Ibid., vol. 11, p. 537.

⁶⁰ Ibid., vol. 11, p. 613.

⁶¹ Ibid., vol. 11, p. 615.

⁶² Ibid., vol. 11, p. 641-642.

plenary session of the Constituent Assembly happy with these proposals? Not especially, and on 20 February 1790, discussions were resumed with a new proposal by the deputy Isaac-René-Guy Le Chapelier, member of the Constitution Committee. What did this new proposal say? That in the event of their not mobilizing the forces of order, municipal officers would be removed from office and disqualified from the exercise of any public function, and would be required to pay compensation for any losses resulting from the disorder. The desire of many deputies to ensure that the maintenance of law and order was not left exclusively in the hands of the king led them to put pressure on the municipal authorities, with the imposition of severe punishments should they refuse to intervene.

*Art. 2. If out of negligence or weakness, the municipal officers did not request the help of the armed forces, and if any damage were done, they would be responsible for it; they would be deprived of their offices, declared incapable of assuming any public function in future, condemned to third parties, and to give reparations as judged fair to those who have suffered damage to their person or property, and for the restitution of the sums which the public treasury may have lost through the pillage of its coffers or the default of the receipt of taxes. Art. 3. If it could be proven that the municipal officers excited or favoured the seditious mob, they could, exceptionally, be followed, condemned as corrupt, and punished as such.*⁶³

The Right sector of the Constituent Assembly was not satisfied by this new proposal. Its deputies continued to believe that the executive power was separate from the monarch, that the king had no role to play and that the municipal authorities had no need of him, and that the fears of these authorities were an obstacle to the application of martial law. When Cazalès, Jean-Jacques Duval d'Eprémesnil and Pierre-Victor Malouet, among others, called for the executive power to be reinforced and for the king to be given absolute responsibility for the management of breaches of order,⁶⁴ these interventions provoked the reaction of Honoré-Gabriel Riqueti, count of Mirabeau: If they wished to establish a dictatorship in France, then they must submit a motion to that effect for discussion.⁶⁵

Two days later, Maximilien-Marie-Isidore Robespierre intervened in the discussions to declare that the draft decree of the 9 February had already been adopted, and that another proposal for the restoration of public order was now being discussed, because the ministers – in the report that had been read to the Constituent Assembly on 16 February – considered that the draft decree of the 9 February was insufficient.⁶⁶ Robespierre was of the opinion that there was no need to adopt any new martial law, especially when the present disturbances were being put down and elections to districts and departments

⁶³ Ibid., vol. 11, p. 653.

⁶⁴ Ibid., vol. 11, p. 654-658.

⁶⁵ Ibid., vol. 11, p. 655.

⁶⁶ Ibid., vol. 11, p. 665.

were about to take place.⁶⁷ The Left sector of the Constituent Assembly considered that the outbreaks of disorder were exaggerated and that what was needed was conciliation rather than repression, the communication the decrees of the Constituent Assembly to the municipal authorities and the involvement of ecclesiastics in their dissemination.⁶⁸ This was so for the simple reason that breaches of order were due to ignorance of the law, or due – as the Abbé Grégoire, president of the Committee of Reports, was to say, on the basis of the opinion of the municipal authorities – to ignorance of the language, to a fear that the decrees of the 4 August were not being implemented, to a misunderstanding of the decrees, or because malicious persons were leading the peasants into mischief and false decrees were being circulated throughout the country.⁶⁹

On the following day, the 23 February, the deputy Pierre Boussion presented his own draft, as Maury or Malouet had previously done, in which he brought together a number of the interventions that had been made since Louis XVI's address to the Constituent Assembly on 4 February 1790, such as that the municipal authorities should compensate any losses occasioned by their negligence, that the king should address all decrees to the municipal authorities as soon as they were passed, or that the clergy should read out the adopted decrees in their churches.⁷⁰ The National Constituent Assembly duly discussed Boussion's motion and concluded that the municipal authorities should apply martial law when the collection of taxes and the security of persons and property should so require, and that the Commune – not the municipal officials – should be responsible for paying compensation if the disorder could have been avoided. However, the Commune could seek to reclaim these sums by taking legal action against the perpetrators of the disorder in the courts.⁷¹

In February 1790 the municipal authorities elected by their citizens came within a hair's breadth of being obliged to cede to a monarch who since July 1789 had seen this competence denied him the exercise of the maintenance of law and order, thus making it possible for the National Guards, the *maréchaussées* or the troops to be called out without municipal mobilization,⁷² and requiring the municipal authorities to compensate losses suffered as a result of a breach of order by considering them guilty of negligence or incompetence in failing to quell the disorder.⁷³ The municipal authorities were spared this cession, but were required to adopt martial law, they were required to take action,

⁶⁷ Ibid., vol. 11, p. 673-674.

⁶⁸ Ibid., vol. 11, p. 537 and p. 670.

⁶⁹ Ibid., vol. 11, p. 537.

⁷⁰ Ibid., vol. 11, p. 677.

⁷¹ Ibid., vol. 11, p. 682.

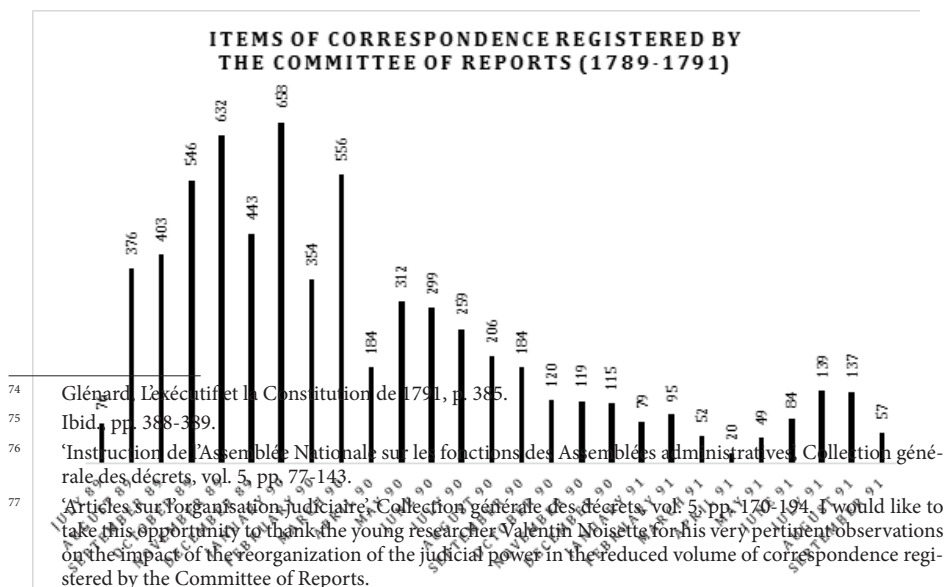
⁷² This situation was to be modified by the decree of the 16 January 1791, which led to the founding of the national gendarmerie. In this decree it was established that the gendarmerie could act without a particular mobilization. This situation was also modified as a result of the draft decree of the 27 July 1791, which established that the guards on salary were in the same situation as the national gendarmerie. However, in accordance with this draft decree, the National Guard and troops of the line had to act at the orders of the city procurator, or, failing that, of the municipal authority.

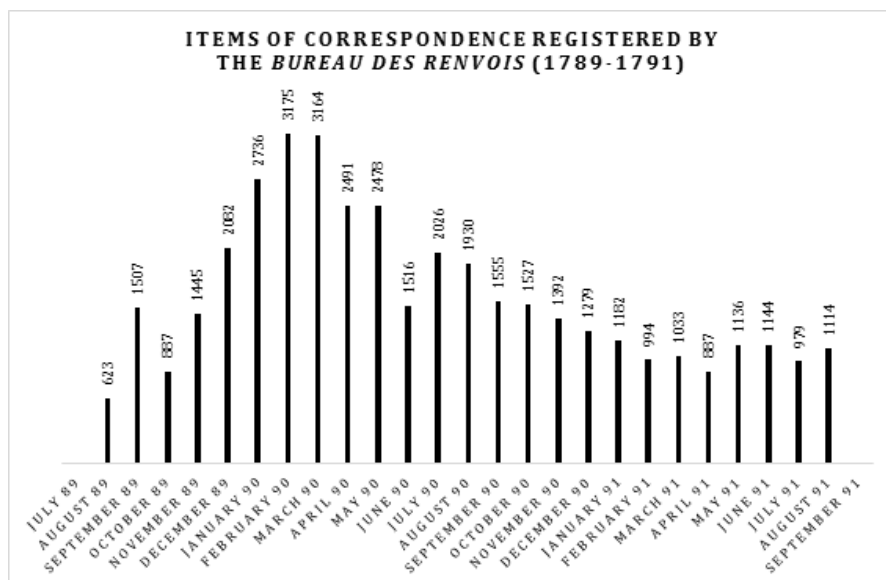
⁷³ This debate has also been taken up by Carrot, *Révolution et maintien de l'ordre*, pp. 117-120.

and when some months later their role in the maintenance of order (political, economic and social) was once again interdicted on account of their proximity to their citizens, the sovereign people that had elected them, the National Constituent Assembly and its Committee of Reports chose to oblige them to obey the decrees of the legislative body. How? By sending civil commissioners to the departments.

V. RESTRICTING COMMUNICATION

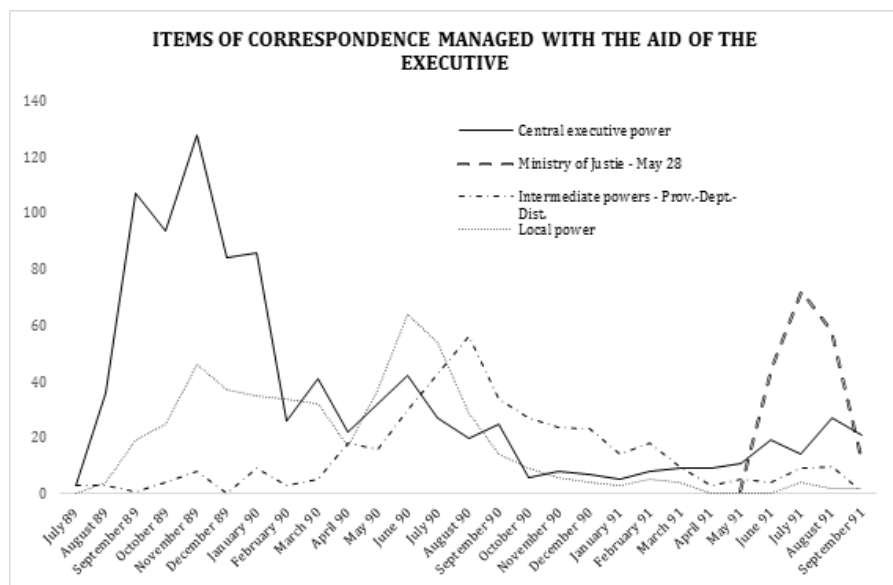
By the time that breaches of public order were once again taking place throughout France, in the summer of 1790, the administration had been renewed. The municipal elections were held during the months of January, February and March, and the elections to the districts and departments took place in the months of May and June.⁷⁴ The National Constituent Assembly had already defined the channels of communication between the different tiers of administration of the realm and had also established an administrative hierarchy with responsibility for overseeing the legality of administrative acts.⁷⁵ On 12 August 1790, the functions of the administrative assemblies were defined by means of an instruction⁷⁶ and on 16 August 1790, the judicial reorganization took place.⁷⁷ The summer of 1790 therefore saw a reorganized and renewed executive and judicial administration. At that time, the situation had changed so much that even the amount of correspondence received by the Committee of Reports and the National Constituent Assembly was considerably affected. The number of items registered by the *Bureau des renvois* of the Constituent Assembly and the Committee of Reports began to decline markedly in comparison with previous periods. What was happening? Why had the volume of correspondence decreased?





By the middle of the summer of 1790, taking into account the administrative and judicial reorganization and the fact that the instruction of the 12 August 1790, established that the departmental administrations constituted the link between the king and the district administrations, and that these last named were the bond between the departmental administrations and the municipal authorities,⁷⁸ it seems likely that both the citizens and their municipal authorities had begun to apply to their most immediate administrative authorities to resolve their doubts and their problems. This would explain not only the reduction in the volume of correspondence received by the National Constituent Assembly and by the Committee of Reports, but also a reduction in the frequency of this committee's contact with the local powers and its more frequent and more intense contact with the departmental powers.

⁷⁸ 'Instruction de l'Assemblée Nationale sur les fonctions des Assemblées administratives', Collection générale des décrets, vol. 5, p. 82.



In fact, on 6 October 1790, the Committee of Reports assigned a separate register to recording the correspondence with the departmental directories,⁷⁹ and on 7 January 1791, the Constituent Assembly ruled that only the deputation of the administrative bodies or directories of the departments and those of the Municipality of Paris would be admitted at *la barre*.⁸⁰ Direct communication between the local authorities and the Constituent Assembly was being restricted in favour of communication between the departmental authorities and the Constituent Assembly. And in fact it was not only the local power's direct communication with central power that was restricted but also the right to petition – which could not be exercised on behalf of the collective – and the capacity of the municipal authorities to deliberate on any matter that had a bearing on the nation or the revolutionary process. In the wake of the adoption of the draft decree of the 10 May 1791, the assemblies of the communes could be convened and authorized only to discuss strictly municipal matters. Any deliberation that strayed beyond the purely local ambit would be considered null and unconstitutional.⁸¹

In this context, then, of the diverting of local affairs to the new reorganized administrative and judicial authorities, the role of the municipal authorities in the maintenance of law and order was once more interdicted, above all when conflicts arose between the municipal authorities and the district and departmental authorities. The municipal authorities accused the departmental authorities in particular of seeking to impose themselves, whereas the National Constituent Assembly was of the opinion that the municipal

⁷⁹ Archives Nationales, record D*XL 60.

⁸⁰ Collection générale des décrets rendus par l'Assemblée nationale, vol. 10, pp. 28-29.

⁸¹ Archives parlementaires, vol. 25, pp. 693-694.

authorities were unwilling to subordinate themselves to their more immediate authorities.⁸² It would appear that by the summer of 1790, the normative texts organizing the various structures of administration still presented omissions, and the limits of their prerogatives were not yet clearly defined.⁸³

In fact, the municipal authorities entered into conflict with the departmental authorities because they acted in a similar fashion to the Committee of Reports. They annulled decisions taken by municipal authorities, examined and validated elections at the municipal level, made decisions as to how the breaches of order within the department were to be managed, and suspended the municipal authorities at they saw fit.⁸⁴ Above all, however, the municipal authorities came into conflict with the department authorities over their repeated refusal to proclaim martial law,⁸⁵ and it was on this question that the deputies Étienne-Vincent Moreau and Louis-Simon Martineau intervened in the National Constituent Assembly, on 16 July 1790, to request yet again that municipal officers should be held responsible for all such disturbances as they had failed to prevent.⁸⁶

However, when the municipal authorities came into conflict with the districts and departments, with these intermediate tiers, which were also concerned with the application of the law within their jurisdictions,⁸⁷ the National Constituent Assembly and especially the Committee of Reports opted to send civil commissioners to pacify breaches of order. This was intended to set in motion the administrative machinery put in place by the legislative power to fine-tune the various instruments whose purpose was on the one hand to enforce the law and on the other to maintain public order. From September 1790 to July 1791, 11 missions were mounted by the National Constituent Assembly with a view to ensuring the maintenance of law and order. Of these 11 missions, seven were proposed by the Committee of Reports.

Date	Mission	Person(s) proposing the mission
31-08 / 03-09-1790 (AP, t. 18, p. 434 and p.530)	Mission to Nancy	Barnave on behalf of the Military Committee / Mirabeau
13-12-1790 (AP, t. 21, p. 458)	Mission to the Lot department	Lucas / the Committee of Reports
20-12-1790 (AP, t. 21, p. 598)	Mission to Aix	Proposed by the president and the administrative bodies of the department of Bouches-du-Rhône and presented by Mirabeau

⁸² Ibid., vol. 20, pp. 547-548 and vol. 21, p. 292. On subordination of municipal authorities: Glénard, 'Les rapports entre les pouvoirs administratifs locaux', pp. 13-15 and p. 21.

⁸³ Andro, 'Le procureur général syndic en son chef-lieu', p. 33.

⁸⁴ Archives parlementaires, vol. 21, p. 151 and vol. 27, pp. 146-147.

⁸⁵ Archives parlementaires, vol. 15, p. 549; vol. 21, p. 153; vol. 23, p. 176, p. 308 and pp. 545-546; vol. 25, p. 291 and p. 296; and Collection générale des décrets, vol. 12, pp. 208-210.

⁸⁶ Archives parlementaires, vol. 17, p. 166.

⁸⁷ Andro, 'Introduction à la deuxième partie', p. 129.

20-01-1791 (AP, t. 22, p. 353)	Mission to the Haut-Rhin and Bas-Rhin departments	Broglie on behalf of the Committee of Reports
14-02-1791 (AP, t. 23, p. 179)	Mission to the Morbihan department	Broglie on behalf of the Committee of Reports
23-02-1791 (AP, t. 23, p. 452)	Mission to the Gard department	Muguet de Nanthou on behalf of the Committee of Reports
02-04-1791 (AP, t. 24, p. 504)	Mission to the Var department (Extension of the 20-12-1790 mission)	Proposed by Voidel on behalf of the Committee of Research and the Committee of Reports
18-06-1791 (AP, t. 27, p. 312)	Mission to the Island of Corsica	Muguet de Nanthou on behalf of the Committee of Reports
22-06-1791 (AP, t. 27, p. 409)	Mission in certain border departments	Emmery on behalf of the Military Committee
22-06-1791 (AP, t. 27, p. 428)	Mission to go in search of the king	Emmery on behalf of the Military Committee and the Constitution Committee
16-07-1791 (AP, t. 28, p. 379)	Mission to the department of the Vendée	Goupillau on behalf of the Committee of Reports and the Committee of Research

VI. SENDING OUT CIVIL COMMISSIONERS

For the purpose of maintaining law and order, the Committee of Reports and the National Constituent Assembly opted to send civil commissioners to those areas where breaches of order occurred. The civil commissioners were tasked with restoring law and order and obtaining the necessary information to assess the situation, identify the causes of the disturbances and come up with the most appropriate means of ensuring peace. If the bodies empowered to restore law and order were failing to do so, had entered into conflict or were at the root of the problem, the civil commissioners had to make them operational again, restoring the hierarchy, implementing the decrees passed by the Constituent Assembly, removing from office all those who stood in the way of good order or initiating judicial action against the perpetrators of the disorder. The civil commissioners also had to instruct the people as to their true interests and lead them away from wrong or false ideas spread by malicious persons or enemies of the revolutionary process. In order to achieve peace, they could issue proclamations or call out the National Guards and the troops of the department to which they were delegated and those of the neighbouring departments.⁸⁸ If the administrative authorities of the area had neither been interdicted nor were at the root of the disorder, the civil commissioners could work with them to restore the peace, and could similarly work with the clergy to have their proclamations read out from the pulpit.⁸⁹

⁸⁸ Castellà, *Revolució, poder i informació*, vol. 1, pp. 194-208.

⁸⁹ *Archives parlementaires*, vol. 25, p. 276.

For the Committee of Reports, which proposed the majority of missions that took place under the National Constituent Assembly, the civil commissioners were an efficient resource for maintaining law and order: 1) they were more effective and less dilatory than leaving the administrative bodies to deliberate and make decisions; and 2) they had no links to the local populace.⁹⁰ In addition, the civil commissioners could provide the Committee of Reports with supplementary information in addition to that supplied by the local deputies and administrative authorities – and perhaps more neutral information. Indeed, some civil commissioners on mission acted as instruments of a two-way flow of information: on the one hand they communicated their proclamations, and on the other they received the petitions of the people.⁹¹ The discourse of the legislative power was brought to the people, and the voice of the people was brought to the legislative power, or rather, to the Committee of Reports. For although the majority of civil commissioners sent on mission were appointed by the king – deputies of the Constituent Assembly only began to be recruited as civil commissioners after the flight of the king – the information they collected very often went to the Committee of Reports, which then made the corresponding report to the legislative body.⁹² In fact, the involvement of the Committee of Reports in the missions of the National Constituent Assembly was so important that on 22 June 1791, the day after the king's flight, a large number of the deputies chosen to go out on mission to implement the necessary measures to guarantee the security of the State and maintain public order were present or former members of the Committee of Reports.⁹³

However, the use of civil commissioners to maintain law and order was not equally to the liking of all. Some departments displayed their displeasure at the imposition of these outsiders who made contact directly with the district authorities or the municipal authorities and received them with cries of “*Les commissaires à la lanterne*”;⁹⁴ and in the framework of the National Constituent Assembly, not all the deputies applauded the proposals of the Committee of Reports when these entailed sending out a new mission.⁹⁵ In February 1790, there was no intention of strengthening executive power or of granting the king full powers to maintain law and order, but by the autumn of that year it had been decided that the civil commissioners should adopt whatever measures they considered opportune, employ all requisite means of prudence and persuasion necessary, and take such steps as they judged appropriate or useful.⁹⁶ The civil commissioners had been invested with so wide an arc of powers as to lead Muguet de Nanthou to remark on 11 February 1791 that they exercised a form of dictatorship under its aegis.⁹⁷

⁹⁰ Ibid., vol. 23, p. 452 and p. 639.

⁹¹ Ibid., vol. 25, p. 276.

⁹² Ibid., vol. 23, pp. 133-136 and pp. 639-641; vol. 26, p. 288 and pp. 672-676.

⁹³ Castellà, ‘Les Comités des rapports et des recherches’, p. 188.

⁹⁴ Archives parlementaires, vol. 23, pp. 133-134.

⁹⁵ Ibid., vol. 23, p. 452.

⁹⁶ Ibid., vol. 18, p. 530; vol. 22, p. 353 and vol. 23, p. 179.

⁹⁷ Ibid., vol. 23, p. 134.

Despite the fact that the historiography of the French Revolution has inexplicably tiptoed around the missions of the National Constituent Assembly,⁹⁸ considering them to be essentially military – when this manifestly was not so – and instruments of the executive power, because the civil commissioners were appointed by the king,⁹⁹ they were beyond all doubt a resource of the Committee of Reports, of the forerunner of the Committee of Public Safety under the National Constituent Assembly, with which to ensure the maintenance of public order.¹⁰⁰ Contrary to what has been said, at no time did the National Convention table any original motion for the purpose of safeguarding the political, economic and social order it defined through its decrees. The only original measure, if it may so be called, adopted by the National Convention was the appointment of its own deputies to go out on mission, but viewed in the light of the missions sent out after the king's escape, even this was scarcely original.¹⁰¹

VII. CONCLUSION

The Committee of Reports never set itself up to oversee those at the local and/or departmental level who were responsible for the maintenance of law and order, especially when breaches of the peace were taking place or the corresponding administrative authorities were unable to subdue these disturbances. In fact, officially, it had never been asked to concern itself with the maintenance of law and order, this being a competence of the executive power. Nor had it tasked by any founding decree with identifying the causes of breaches of public order or with determining the most appropriate means of pacifying them. The Committee of Reports, by the terms of the decree by which it was established, had been created to receive the reports, complaints and addresses that reached the National Constituent Assembly, and to report on those it felt required this attention.¹⁰² However, no one had the slightest doubt that this founding decree had been drafted in these terms in order not to interfere with the executive power. The first motion that had been tabled to establish it called for the creation of a committee within the framework of the Constituent Assembly to deal with all matters that had to do with the administration and the police: in other words, all the matters that had a bearing on the breaches of order that were taking place.¹⁰³

⁹⁸ The majority of historians who have written about the missions of the National Constituent Assembly have done so in relation to the mission of the 22 June 1791: Aulard, *Recueil des Actes du Comité de Salut Public*, p. 54; Biard, *Missionnaires de la République*, p. 33; Biard, 'Les pouvoirs des représentants en mission', p. 4; Bonnal de Ganges, *Les représentants du peuple en mission*, vol. 1, p. 97; Boulet-Sautel, *Cours d'histoire des institutions publiques*, p. 165; Godechot, *Les commissaires aux armées*, vol. 1, p. 17 and Godechot, *Les institutions de la France*, p. 341.

⁹⁹ Biard, *Missionnaires de la République*, p. 38 and p. 60.

¹⁰⁰ Castellà, 'Molt més que un comitè tècnic', pp. 167-216.

¹⁰¹ Biard, *Missionnaires de la République*, pp. 72-73.

¹⁰² *Archives parlementaires*, vol. 8, p. 292.

¹⁰³ *Ibid.*, vol. 8, p. 279 and p. 292.

The fact of receiving correspondence concerning the administration and the police, and information relating to the disturbances, as well as the requests, reports and addresses of correspondents, citizens, administrations, popular societies, military corps and others, led the Committee of Reports to interfere with one of the most important competences of the monarch: the maintenance of public order and, in the process, to have within its purview the local and popular management of the maintenance of public order. To what purpose? To enforce the law, to impose and uphold the order (political, economic and social) envisaged by the deputies in drafting their decrees. The management of information of an executive cast by the Committee of Reports, and by the National Constituent Assembly, had its consequences: the intervention of the legislative power in functions of an executive nature, as duly denounced by Jean-Félix Faydel, right-wing deputy and three-time member of the Committee of Reports, before the Constituent Assembly on 11 March 1791:

*You are only here, Sirs, in order to prepare the laws, only to establish a separation of powers which can only maintain our nascent liberty, only to prevent that these powers could ever be combined in the same hands; and nonetheless we dare to propose to you a decree which evidently seems to bestow both of these onto your heads; and to hold you accountable for the anarchy which has distressed the most beautiful empire in Europe; because you must not hide the fact, Sirs, that if the executive power is lacking in vigour or activity, that if its agents are not active, that if its tribunals are mute, that if disorder has been increasing for eight months, that if the modern laws, like the ancient ones, are not always obeyed, that if every citizen, as it were, believes that he has the right for his will to prevail, that if the municipalities impinge on the power of the judiciary, and if it has not been possible until present to remedy these disorders, we cannot blame all these hardships on anything but on our too great willingness to receive petitions, complaints, demands that the existence, decisions and responses of many of our committees have deviated from their true direction, making us the judge of them.*¹⁰⁴

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¹⁰⁴ Ibid., vol. 12, p. 139.

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Dreams of ‘moving from the Napoleonic code to the new era of the judiciary’ on the eve of establishment of the Kingdom of Poland (1814-1815)¹

Michał Gałędek

I. THE POLISH STATE AND ITS JUDICIARY SYSTEM IN THE EIGHTEENTH CENTURY.

In the mid eighteenth century, Poland was a dysfunctional, even collapsed state in terms of the structure and principles which governed the sphere of public life. It stood out in Western Europe for its undeveloped state structure, particularly the judiciary and administrative apparatus.² This situation was further aggravated by inept estate and feudal justice system, and an anachronistic legal system, devoid of codification and largely predicated on customary law.³ However, in the latter half of the eighteenth century, during the wave of pan-European Enlightenment, the situation gradually began to change. The reforming camp that was consolidating at the time was continuously gaining strength in its efforts to modernize the country, leading to fundamental transformations in the political system. The first period of political changes began in 1764, with the ascension to the throne of Stanisław August Poniatowski, an enlightened ruler and reformer. Stanisław August was the last in the line of kings of what had once been an European power, namely the Polish-Lithuanian Commonwealth, a state with a number of particular institutions that resulted in the country evolving a fairly specific and unique republican tradition. Working alongside the reformist camp, Stanisław August strove to pull the country out of the stagnation and political collapse which it had been suffering for over 100 years. Taking Western Europe as their main point of reference, a large part of the erstwhile political elite had grown convinced of the backwardness of the Polish territories and pointed to the weak statehood resulting from numerous defects in the political system. However, an attempt to conduct complex reforms ended in failure in 1795, with the collapse of the state due to partitions carried out by the neighbouring powers. Nonetheless, on the eve of the collapse, a number of comprehensive governance reforms were successfully implemented, especially regarding the functioning of the Four-Year Sejm (1788-1792).

¹ The present paper has been prepared within the project “National Codification-a Phantasm or a Realistic Alternative? In the Circle of Debates over the Native Court Law System in the constitutional Kingdom of Poland” financed by the National Science Centre (Narodowe Centrum Nauki) on the basis of decision no. DEC- 2015/18/E/HS5/00762.

² Lukowski, *Disorderly Liberty*, pp. 1-53; Ludwikowski and Fox, *The Beginning of The Constitutional Era*, pp. 60-61.

³ Bogucka, *The Lost World of the ‘Sarmatians’*, p. 162.

The greatest success of this period was the adoption of a republican Constitution on 3 May 1791, which consisted of adapting Polish traditions to the requirements of a modern state, of course according to the standards of the Age of Enlightenment.⁴

The constitution, by necessity, had to be a compromise between groups we can refer to as progressives and traditionalists. The reformers not only tried to copy some modern Western European institutional solutions, but moreover to modify these creatively, combining the Polish republican tradition, a system with roots stretching back to the Renaissance organization of state which indirectly referred to Ancient traditions of the Roman republic and classical republicanism.⁵ At the time, the process of modernization of Poland drew from the contemporary European canons of Enlightenment philosophy, and political thought. What made Poland different from surrounding countries, however, was its own political tradition, heritage and a strong ideology of following one's own path. The latter philosophy, according to the traditionalists, as the only one that could bring back the old times of glory.⁶

This debate was reflected, among others, in how the judiciary was reorganized at the end of eighteenth century. During the reforms of the Four-Year Sejm the authorities decided to abolish the earlier mosaic of courts⁷ and, for the first time ever, introduced the principle that land courts, municipal courts and supreme courts (two crown tribunals) would be 'always ready', instead of dealing with cases only at periodically summoned sessions. In addition, there was a 'still shy, but noticeable tendency to increase the professional and moral qualifications of judges', but only in practical aspects. This was because 'the candidates were required to have held public offices before, and thus to have some level of experience'. However, the reformers still did not fathom the idea that judicial offices should only be given to professional judges with a legal education. To the contrary, they believed that the only way to guarantee that the judiciary would be free of abuse was to appoint judges for four-year terms in office, and the only professional qualification required was for them to know 'the law and national procedure' in general. However, no method of verifying this knowledge was established. It was left to the discretion of the electors whether or not a candidate was fitting. Electors consisted of the nobility that gathered at dietines, or the townsmen who also elected both judges and administrative officials at separate communal gatherings.⁸ However, there was still a prevailing view that holding a judicial or administrative post was an honour and privilege, rather than work that deserved remuneration. In line with the republican tradition, offices were to remain unpaid, as exercising them was considered a civic duty that every patriot was obliged to

⁴ Gałędek, 'Legal Transfers and National Traditions'.

⁵ Grześkowiak-Krwawicz, 'Noble Republicanism'; Müssig, 'Reconsidering Constitutional Formation', p. 85-90; Müssig, 'Juridification by Constitution', pp. 29-34; Tarnowska, 'The Sovereignty Issue in the Public Discussion', pp. 233-235, 247-249.

⁶ Jedlicki, *A Suburb of Europe*, pp. 3-12, 51-63; Janowski, *Polish Liberal*, pp. 9-19.

⁷ Vilimas, 'The Formation of the Land Court System'.

⁸ Filipczak, 'Elekcje ziemskich urzędników sądowych'.

discharge, pursuant to the idea of civic virtues and moral obligation to serve the country, including the holding of public offices.⁹

II. REFORMS OF THE JUDICIARY SYSTEM IN THE DUCHY OF WARSAW.

Shortly after these reforms Poland collapse and in 1795 the central Polish territories came under Prussian rule. From this perspective, the Polish political elites may have felt somewhat shocked to experience first-hand the modern Prussian way of organizing the judiciary. Under Prussian annexation, judges were consistently required to have legal qualifications, and this principle was subsequently upheld once Polish statehood was restored by Napoleon in 1807 as the Duchy of Warsaw under French protectorate. The Duchy's judiciary was organized according to the French model. The latter model was in line with the constitution octroyed by Napoleon to the Duchy in 1807 and with the new organization of the judiciary system, implemented in 1808.¹⁰ The lowest instance were courts of peace, established in each powiat. Unlike in France, the court of peace was divided into two divisions: of arbitration and of litigation. The task of the arbitration division was to seek settlements in cases under the jurisdiction of the Departmental Tribunal. It was headed by a justice of the peace, who did not have any jurisdictional competences, but apart from arbitration also held a number of guardianship functions. The justice of peace was chosen by the dietines composed of noblemen, and his selection was confirmed with a royal appointment. This office was honorary (justices of the peace did not receive any remuneration from the State Treasury), and they discharged their function for three years, in terms of a few consecutive months. The other division, that is the litigation one, was headed by an official unknown neither in the French judiciary system, (however was somehow an imitation of the French office of suppleant) nor in the Napoleonic constitution of the Duchy of Warsaw assistant justice of the peace (Pol.: podsądek, from Latin subiudex, literally sub-judge). He had full jurisdiction in civil and criminal cases, and candidates for this function had to meet certain professional criteria: having completed a course in law, they took a theoretical examination and a court apprenticeship. They stepped into office upon the receipt of a ministerial appointment.¹¹ In each civil department there were tribunals of first instance for graver cases and appellate tribunals which examined appeals in less important cases, alongside an Appellate Court which served as an all-national appellate instance and the Council of State acting in the capacity of a cassation court.¹²

⁹ Michalski, *Studia nad reformą sądownictwa*, vol. 1, pp. 3-43; Michalski, 'Zagadnienie reformy sądownictwa'.

¹⁰ Klimaszewska, 'Le droit pénal français sur les territoires polonais'; Klimaszewska, 'The Reception of the French Commercial Law'.

¹¹ Mencil, Feliks Łubieński, pp. 61-63; Rosner, 'Sędziowie i urzędnicy sądów'; Rosner, 'Stare i nowe w organizacji'.

¹² Sobociński, 'Sądownictwo Księstwa Warszawskiego'; Krzymkowski, *Rada Stanu Księstwa Warszawskiego*, pp. 178-196.

Feliks Łubieński, the erstwhile Minister of Justice and the chief supporter of modernization by way of transplanting French institutions, was heavily criticized from the very beginning. His aim was to establish the office of – mentioned above – professional assistant justice of peace. In his defence, Łubieński argued that there was a need to alleviate the workload of elected and unpaid justices of the peace and that the present justices did not have the qualifications needed to resolve any disputes that required a thorough knowledge of the law. The criticism of Łubieński was further inflamed by the unavoidable problems brought by the implementation of the new organization of the judiciary system.¹³

These problems were exacerbated not only by the lack of traditions regarding the justice system, but above all because the courts, just like in pre-partition Poland, did not operate according to ordered procedures, since the criminal and civil procedures were not codified. During the reign of Stanisław August legal reforms were to follow suit of the political reforms. However in the sphere of civil and criminal law these reforms were not successful, in particular owing to the Sejm's rejection of the first codification proposal, the so-called Collection of Court Laws of 1776 penned by Andrzej Zamoyski. The second proposal, the so-called Code of Stanisław August which commenced to be prepared in 1791 also was not completed due to the collapse of the Polish Lithuanian-Commonwealth.¹⁴ In the Duchy, alongside the new organization of the judiciary system, the French civil procedure and the Napoleonic Code were also being implemented. As a consequence, the old Polish judges, poorly educated and not accustomed to following procedural regulations, faced a completely new reality. With varying success they tried to deal with these foreign, often mysterious and inflexible procedures.

The situation was not improved by the fact that there was not a single modern law school operating in the country. The first such school of law was opened in Warsaw only in 1808, and from then on it educated young disciples of the legal profession according to the new standards. However, the new representatives of the legal professions educated in new schools and in accordance with new principles and programmes, only knew the mechanisms of codified laws and procedures, and could not possibly know the Polish laws extensively. 'In the understanding of the old order of things they were, thus, foreigners in their own land, uneducated in the rules of application of the old system of Polish law and unable to do it.'¹⁵

It was also the case that courts and their organization were affected by a great hostility toward the Napoleonic Code and the French civil procedure, both from the nobility and the clergy, who saw the introduction of Napoleonic codification as a real threat to their own interests. The negative public opinion of the Napoleonic Code and French

¹³ Mencil, Feliks Łubieński, pp. 64-70; Sobociński, *Historia ustroju*, p. 203; Mencil, 'L'introduction du Code Napoléon', p. 181-182.

¹⁴ Borkowska-Bagińska, *Zbiór praw sądowych Andrzeja Zamoyskiego*, pp. 58-152; Szafrński, *Kodeks Stanisława Augusta*, pp. 93-211.

¹⁵ Antoni Wyczechowski, *Myśli względem prawodawstwa narodowego*, 1815, manuscript in Biblioteka Książąt Czartoryskich, no. 5259 IV, pp. 72, 73, 75.

model of judiciary also stemmed from an emotional rejection of foreign law, which was seen as contrary to native customs and traditions. The erstwhile Vice-Mayor of Warsaw, Stanisław Węgrzecki, noted this 'sonorous scream against the code', observing that 'hardly anyone supports it; even those who do not know it at all, who have not read it, clamour that it is not attuned to our climate [...]. A nobleman is frightened of the code, so as to not lose his power over the peasants, he is pained by being put in the same tribunal with a townsman and a peasant, by having the same succession laws apply to him and to the townspeople [...]. Clergymen suffer over having to relinquish religious rites to freedom of conscience and worship.'¹⁶ The criticism was fuelled by code provisions that guaranteed equality before the law, regardless of birth, nationality and religion. The correct implementation of the code thus required a rearrangement of social relations, especially since the code was clearly anchored in the principle of the primacy of positive law, according to which it would be possible to abolish the existing laws and customs at any time. The landed gentry therefore felt this posed a constant threat to their privileged position.¹⁷ This was accompanied by the hostile attitude of the Catholic church which fiercely opposed the provisions for registrar's offices and lay marriages, as marriage which had thus far been a holy union, could now be dissolved contrary to the canon law.¹⁸ This fear of upturning social relations and of downgrading the position of the nobility and of the clergy translated into a landslide of criticism against the transplanted law.

III. 1814-1815: AN ATTEMPT TO TRANSITION INTO 'THE NEW ERA OF JUDICIARY'.

The criticism of the new judiciary system during the Duchy of Warsaw focused on the issue of its alleged excessive costs. Many critics deemed the expenses spent on the judiciary system as unnecessary and called for the honorary judges to be brought back, as well as for jury courts to be established.¹⁹ The Napoleonic constitution did not prohibit the introduction of these institutions, but the powerful minister of justice Feliks Łubiński opposed such a solution. It was not until the fall of Napoleon that the vision of a complex reform finally became realistic. At this time the French protectorate was replaced with a provisional government appointed by the liberal tsar Alexander I, who strove to establish a Kingdom of Poland under his influence. Alexander I gave the Polish political elites considerable freedom, promising that he would take advantage of their proposals in the implementation of the new political system. By virtue of the ukase dated 19 May 1814, the tsar established the Civil Reform Committee. The guidelines issued by the tsar, in which he set the desired direction of reforms, included also a directive laying down the bases

¹⁶ Stanisław Węgrzecki, *Przestrogi do utworzenia Królestwa Polskiego*, 1813, manuscript in Biblioteka Książąt Czartoryskich, no. 5242 IV, pp. 126-127; Kieniewicz, Mencil and Rostocki, *Wybór tekstów źródłowych*, p. 188.

¹⁷ Mencil, 'L'introduction du Code Napoléon', pp. 146-148, 152-155, 167, 180-185.

¹⁸ Pomianowski, 'Z problematyki rozwodów', pp. 108-110; Gałędek and Klimaszweska, 'The Work of the Civil Reform Committee', pp. 184-186.

¹⁹ Koźmian, 'Postrzeżenia ogólne o sądownictwie'; Wężyk, 'O Wydziale Sprawiedliwości'; Mycielski, 'Miasto ma mieszkańców, wieś obywateli', pp. 60-63; Cichoń, *Rozwój myśli administracyjnej*, pp. 155-166.

of the codification strategy: 'The Napoleonic Civil Code and Judicial Procedure should be abolished as soon as possible. The Polish laws, the Lithuanian Statute and the judicial forms used before the introduction of the French procedure could be substituted for it. The Committee will discuss whether the codes should be eliminated in whole or in part, and at what time this abolition could take place. It will also propose a plan and the composition of a separate Commission to be created which will be responsible for the drafting of a new Civil Code, Criminal Code and procedures, as well as the final organization of the judicial order.'²⁰ The fate of the French law and judiciary system seemed to be etched in stone, and its abrogation was to be a mere matter of time.

However, the true *spiritus movens* of these reforms was not Alexander. In reality, he had merely accepted the proposals formerly presented to him by Prince Jerzy Adam Czartoryski, primarily in a memorandum dated 7 February 1814.²¹ The erstwhile most influential representative of the Polish political elite stepped into the role of 'a natural intermediary between the Russian tsar and the Polish society', affecting numerous key political and legal decisions regarding the future status of the Kingdom of Poland, and especially the contents of the constitution adopted in 1815.²² During the Duchy of Warsaw, Czartoryski was among the ranks of adamant opponents of the French modelled reform into Polish territories, both for social and political reasons. The Prince 'was oblivious to the institutions of the Duchy [...] he was by principle inimical to all things Napoleonic'.²³ Yet this did not stop him from appreciating their positive traits. He believed these institutions would be a work of 'insight and reason' and counted it as one of the more 'orderly' group of works, from which it would be worthwhile to draw 'what is useful and well-seen'. Yet of decisive significance was Czartoryski's ideological conviction that the introduction of 'foreign laws [...] and with them - of foreign customs and sentiments' would lead the Polish nation to 'lose its originality' and, along with that, 'its good qualities'. He believed that every nation that decides on a legal transplant 'acquires [...] in large part foreign failings'. For this reason, he proclaimed, perhaps with slight exaggeration, that 'It is the saddest fate of a country, when it must adopt a legislation imposed upon it,

²⁰ The full original text reads as follows: 'Le Code Napoléon civil et de procédure judiciaire devrait être aboli le plus tôt possible. On pourrait intérimalement y substituer les lois polonaises, le Statut de Lituanie, ainsi que les formes judiciaires usitées avant l'introduction de la procédure française. Le Comité discutera si les codes doivent être abolis entièrement ou en partie, et à quelle époque cette abolition pourrait avoir lieu. Il proposera aussi un plan et la composition d'une Commission séparée à créer qui sera chargée de la rédaction d'un nouveau Code civil, criminel et de procédure, de même que l'organisation définitive de l'ordre judiciaire.' (Askenazy, 'Zagrożenie Kodeksu Napoleona', p. 375).

²¹ In his memorandum dated 7 February 1814, Czartoryski wrote: 'Le Code de Napoléon civil et de procédure judiciaire doit et peut s'abolir immédiatement, en y substituant intérimalement les lois polonaises et le Statut, ainsi que les formes usitées avant l'introduction de la procédure française [...] La législation civile et l'administration du Duché ayant une fois acquis l'esprit et la forme qu'elles doivent conserver, la volonté de S. M. I. est de joindre successivement au Duché les huit gouvernements polonais, en commençant par les plus voisins.' Askenazy, 'Zagrożenie Kodeksu Napoleona', pp. 374-375.

²² Grynwaser, Pisma, p. 68.

²³ Askenazy, 'Zagrożenie Kodeksu Napoleona', p. 374.

no matter how perfect it may be. It is better to then [i.e. successively] improve, supplement its own institutions that to hastily adopt foreign ones and at foreign behest.²⁴

The postulate to adjust the law and judiciary system to fit with the Polish specificity was in line with the universal expectations of the elites and of the entire landed gentry. Following the fall of Napoleon, the opposition of traditionalist circles began to dovetail with the general European atmosphere of negating the value of works regarded to be revolutionary.²⁵ The Civil Reform Committee, headed by the Prince himself,³⁰ was dominated by the opponents of all the political and legal changes that had been implemented in the Duchy of Warsaw.³¹ Historical literature considers the works of the Committee to be the prime moment of Polish conservative activity. This is also seen as the moment when they had the best opportunity to come forward with a positive program,²⁶ which was not possible in the Napoleonic Duchy of Warsaw.

A more detailed analysis of debates held within the Reform Committee, not only as regards the organization of the judicial system, but also the administration system, indicates that the Committee members had grouped in two camps, in addition to a relatively large wavering group. The fault lines between the two sides were determined by their attitude toward the past and contemporaneity. The traditionalists composed the most influential group. They were headed by a Lublin advocate Franciszek Grabowski, who presided over the Committee's Court Section (called also the Legislative Section) responsible for judiciary system and private law reform. Grabowski enjoyed the support of other members who represented various factions of opponents to the Napoleonic Code, such as the priesthood (in the person of father Józef Koźmian), the clericals (represented by Józef Kalasanty Szaniawski), and members of the most conservative nobility from Galicia (Stanisław Zamoyski), and from Lithuania (Tomasz Wawrzecki). Some members of the so-called Jacobins, like Józef Kalasanty Szaniawski and Andrzej Horodyski, who supported the Napoleonic reforms earlier experienced a complete about-face in their world-views following the downfall of Napoleon. They no longer claimed that Napoleonic institutions were a universal tool of progress, and instead began to champion traditionalist and conservative views, which they previously rejected.

The advocates for the traditionalist group attempted to prove that the organisation and legal system of the Duchy of Warsaw did not account for the specificity of Polish customs and did not meet the needs of an 'agrarian country'. These were, thus, the classic reasons for opposition against legal transfers.²⁷ They believed it would only be possible to build national codification and judiciary system based mostly - if not exclusively - on references to old Polish laws. Traditionalists were of the opinion that only this path, combi-

²⁴ Aleksander Kraushar, 'W setną rocznicę Kodeksu Napoleona', *Gazeta Sądowa Warszawska*, 22 (1908), p. 332; Gałędek and Klimaszweska, 'A Controversial Transplant?', p. 269-298.

²⁵ Wyczechowski, *Myśli względem prawodawstwa narodowego*, 1815, manuscript in Biblioteka Książąt Czartoryskich, no. 5259 IV, pp. 77-78.

²⁶ Mycielski, "Miasto ma mieszkańców, wieś obywateli", p. 133.

²⁷ H. Patrick Glenn, 'The Nationalist Heritage', in *Comparative Legal Studies: Traditions and Transitions*, ed. by Pierre Legrand and Roderick Munday (Cambridge: Cambridge University Press 2003), p. 87.

ned with the complete and possibly immediate rejection of the French law and judiciary system introduced in the Duchy of Warsaw, would allow the new legal system to gain the features of a national law and organisation. At the same time, they believed it was admissible to implement certain tweaks to the old Polish law to bring it in line with nineteenth century standards, and believed it would be possible to do this in a very short time.

The first months of the Committee's efforts to rebuild the judiciary system seemed to confirm that it would be possible to achieve these aims. The Committee members criticism was aimed not at the Civil Code (with the exception of the marital law), but rather at the Code of Civil Procedure, especially its executive provisions. Józef Kalasany Szaniawski was the first one to voice his opinion in this regard at the session held on 17 July. He moved for the Committee to 'deal with drafting a new court procedure right away, as the cumbersomeness of the current one is most suffered by the country', at the same time observing that 'it will also be necessary to change the hierarchy of courts, as it is closely related to procedure'.²⁸ Szaniawski's motion was seconded only by some of the Committee's members. The unnamed opponents of the proposition doubted whether 'an entire new procedure [could be] written with such haste to ensure due precision', and feared that this would lead to 'a commotion'. For this reason, they believed the French Code of Civil Procedure as well as the judiciary system should be sustained 'for the time sufficient to draft another [procedure] capable of adequately replacing the current one'.²⁹ In response, backers of Szaniawski's idea noted it was not possible to tell in advance whether or not writing a new procedure 'capable of adequately replacing' the old one would be impossible, even in such a short time,³⁰ as, 'at the current time it is not principally about attaching ourselves to the method of laying down a systematic procedure, but rather about rewriting the main laws in a national spirit, while leaving the rest to practice'. Szaniawski's supporters also argued that: 'Even though Poland did not have a systematic procedure before, upholding it through tradition and practice, no one complained about the procedure, but rather about the violence of tribunals and the abuse of courts; now, on the other hand, with a methodical procedure, the citizens are falling prey to the despotism of patrons, who enrich themselves by pillaging their property'.³¹ Thus, they were of the opinion that certain principles and institutions of the French procedure with their convoluted formulae, and detailed and confusing methods of regulation, were harmful and should be replaced immediately even with a make-shift procedure laid down according to Polish tradition and national spirit. The argumentation was further elaborated on the next session of the Civil Reform Committee on 21 July, when Franciszek Grabowski 'reported on the actions taken up by the Court Section': 'Leaving until further notice the matters of the Civil Code', Grabowski agreed that the Section's works should be commenced with the 'procedure, as the most incommodious to the people'.

²⁸ Minutes of Reform Committee sessions, manuscript in Biblioteka Książąt Czartoryskich, no. 5233 IV, pp. 20-21.

²⁹ Ibid., p. 21.

³⁰ Ibid., p. 22.

³¹ Ibid., pp. 21-22.

He proclaimed that 'in the opinion of the majority of the Court Section, the French procedure was 'utterly maladjusted to the country, and difficult - if not impossible - to alter and adapt', and should be completely abrogated in the course of current organization of judiciary system, and replaced with another procedure 'drawn from the volumes of Polish laws', as well as with an 'organization of courts specific to this country and well-known to some who still remember it.'³²

As a result, merely one month after the commencement of works, during one of the August sessions of the Committee Franciszek Grabowski notified all those present that the Section had developed a draft 'entailing the first principles of new judiciary organization'. Their author, appellate judge Tadeusz Skarżyński, who was also the member of the Court Section, 'took them from the volumes of old-fashioned Polish laws and introduced some modifications and additions fitting to the current times and circumstances.'³³ As further clarified by Grabowski, 'the spirit of this draft [was, firstly], to abolish small courts, composed of people whose livelihood is the office and the profits that come with it'. Here Grabowski was most certainly referring to the office of *podśędek* in particular. These were judges of the lowest level whose position was a thorn in the side of the critics of the existing system. Secondly, the draft author intended to 'create a judiciary system composed of people who are – as he emphasized – truly worthy of the office', which was to be furthered by restoring the old Polish rule that 'judges cannot be appointed for life, but instead elected every five years for the first and second instance'. Thirdly, the draft stipulated the 'removal [...] from the court staff of the numerous clerks, who do not provide any real help to the judiciary system, but are paid by the poor treasury and maintaining only those staff who actually do real court work'. Fourthly, the reorganization of court hierarchy was to restore judiciary arrangements from the pre-partition era, that is including land courts (*sądy ziemskie*) and castle courts (*sądy grodzkie*) for the nobility and separate municipal courts, as well as an appellate court of second instance and the supreme court in the third instance, which had revision, but not cassation, competences.³⁴

The Section's proposals were well-received, as the Committee members agreed that court officials, just like administrative officials, should be elected, unpaid and only appointed to office for a certain term. In other words, they agreed to entrust judiciary functions to the hands of 'citizens' and for the courts to be dominated by rotating representatives of the wealthy landed gentry, with the exception of cities, where analogous functions were to be held by urban property holders. The idea that judges should work without remuneration was also particularly popular in this period owing to the catastrophic state of public finances related in part to the fact that the Duchy of Warsaw became one of the major battlefields of the Napoleonic times. This led the authorities to frantically seek ways to save money, striving to reduce salaries and employment in the public sector. This is testified to by the draft of Prince Franciszek Ksawery Drucki-Lubecki, in which he scrupulously calculated the scale of savings that could be achieved if his solu-

³² Ibid., p. 24.

³³ Ibid., pp. 56-57.

³⁴ Ibid., pp. 56-58.

tion were adopted. According to his calculations, the expenses of the judiciary system could be cut by three-fourths, from PLN 2 453 900 down to 640 000. In comparison, the reduction of expenses through changes in the administration of internal affairs would amount to only 30% (from PLN 2 866 900 to PLN 2 093 000), even though this was a leading topic in the Committee's discussions and an explicitly expressed wish of the tsar.³⁵

Pursuant to one of the concepts proposed by Andrzej Horodyski, the best solution would be for departmental councils, as representative organs 'composed of people elected at gatherings' to be given the competence to 'propose administrative and judicial candidates for offices [...] in departments to the government'. The final say in this matter was to be of the highest court magistracy in the country, be it in the form of senate or supreme court, but not of the minister of justice, who was a representative of the executive branch. Moreover, Horodyski proposed that the nominating institution should continuously monitor the course of service by 'keeping track of the string of information about all public servants'.³⁶

After the presentation of these drafts discussions began in the Civil Reform Committee on the selection of the most optimal solutions for the future judiciary. Paradoxically, it was the president of the Court Section Franciszek Grabowski who expressed a dissenting opinion on the Skarżyński's draft that he himself had presented. He explained that he disagreed with the concept of appointing judges for five-year terms of office. He argued that judges of first instance should be appointed 'for life, firstly in order to tie them to the office more effectively, seeing as they are not paid, and secondly, so that when a vacancy opens up in higher instances, we can choose from among them, knowing that they have the necessary experience'. Nevertheless, the Committee did not agree to the life term of judges. Even a former minister of treasury of the Duchy of Warsaw Tadeusz Matuszewicz shared such a view which seemed to contrast with his beliefs about administration. He was the main opponent of the traditionalist concepts within the Civil Reform Committee and the staunchest supporter of keeping the foundations of the Napoleonic model in the Duchy of Warsaw. Regarding the judges, Matuszewicz argued for offices with fixed terms, stating that 'it is impossible to do, or even to wish for, for courts to be composed of only lawyers. It will be sufficient for the law to be watched by two or three people whose office will not be for a term, namely: the president, the clerk and perhaps the vice-president, while the rest of the bench should not be for life, but instead: a great number of citizens should be chosen, and from among them persons to hold the office of judges for each term should be selected randomly, to impede early intrigues and meddling. The pool of citizens to choose from could include priests, the townsmen, artists, which would satisfy the cities and save us the trouble of establishing separate court magistracies for them, as in this manner, courts would be composed of both landed gentry and city folk'. Then, Matuszewicz noticed, 'Magistracies [...] would only handle the administration of cities and, partly, the corrective police'. Moreover, he observed that 'a similar selec-

³⁵ Ibid., p. 95.

³⁶ Andrzej Horodyski, *Myśli względem obieralności urzędników*, manuscript in Biblioteka Książąt Czartoryskich, no. 5236 IV, pp. 59-64; Gałędek, *Projekty i koncepcje nowego*, pp. 410-411.

tion of judges for the criminal courts would render something akin to the institution of a jury, which, although cannot be introduced in our country for the time being owing to local impediments, we must strive to at least come a bit closer to this favourable solution.' Matuszewicz's ideas intrigued other Committee members, who 'ordered the Court Section to elaborate the thoughts concerning selection of judges in its draft'.³⁷

Therefore, Committee members did not have any doubts. All the judges were to be elected at dietines, and the issue of professional legal qualifications and of permanent employment in the judiciary had to give way to the republican idea that the justice system is best served by involving broad circles of the social elites, rotating in the discharge of their duties. The traditional Polish popular justice played an important role in this case, but some foreign solutions, such as the institution of the English jury as suggested by Matuszewicz, the French justices of the peace or the Dutch conciliation courts were also deemed worthy of imitation by the Committee. The Committee was particularly interested in the idea of 'introducing a new institution of lay judges to our country, known in the English and French legislation as jury'. However, it also noted right away the 'difficulties that arise here due to the local conditions, where the population numbers are not proportional to the size of the country which would mean that in order to find a sufficient number of fit jury members, it would be necessary to bring them from far away'.³⁸

Even though the potential institution of the jury sparked great interest, a key issue for the reform was the issue of entrusting all judiciary of the lowest instances to elected and unpaid judges. Nonetheless, on this matter, the Committee members – except a few traditionalists – had no intention of bringing back the pre-partition institution. To the contrary, they wanted to preserve one of the institutions transplanted from France, namely courts of peace, despite their general hostility toward legal institutions imported into the Duchy of Warsaw. The original draft of the Court Section did not mention the need to keep courts of peace, however following a discussion of the Committee in this regard, its members decided to modify this draft. Courts of peace were to be maintained 'in order to bring parties to amicable resolutions and thus prevent their cases from going any further'. This meant that, in contrast to the times of the Duchy of Warsaw, the prerogatives of justices of the peace would be expanded and now rule in all the less important disputed cases in place of the much-hated professional minor judges, who were nominated for life and received remuneration.³⁹ There were to be 'three courts of peace in each voivodeship, one court for three, and sometimes four poviats, depending on their size'. Regulations concerning exercise of the office stipulated that 'each poviat [would] elect two justices at dietines, who together would act as an established court of peace. They in turn will convene to fix the order of seating at court, and should they not arrive at an agreement, they will draw lots.' The intended rotational system was to work in such a way that 'according to the established turns, two justices should always remain in the places indicated to them'. In practice, however, the institution of the court of peace boiled down

³⁷ Minutes of Reform Committee sessions, pp. 154-155.

³⁸ Ibid., p. 136.

³⁹ Ibid., pp. 135-136.

to entrusting two fundamentally different functions into the hands of two persons. One of the justices was to 'resolve cases', and the other was to act as a 'custodian'.⁴⁰

The most 'exotic' idea was put forward by Andrzej Horodyski, who proposed 'for the avoidance of confusion [...] to use the solution functioning in Denmark, by establishing conciliation courts which, throughout the years in which the new legal order will form, would resolve all pending cases, allowing the cleansed nation to step into the new order of things'.⁴¹ The President of the Senate, Tomasz Ostrowski, responded to this project by proposing that it be supplemented with an element of Polish tradition, indicating that 'since conciliatory courts cannot issue final judgements in cases where the parties do not accept their resolutions, it would be advisable to introduce courts fashioned following the old Polish courts of arbitration (*sądy kompromisarskie*), which could deliver final rulings in cases between the parties'. Horodyski answered by observing that this idea did not in any way conflict with the Danish model, which besides conciliatory courts also had 'another court that issued final [judgements] in those cases that could not be resolved by conciliatory courts'.⁴² Horodyski's proposition stemmed from a separate problem, that is 'a great number of pending bankruptcy estate cases' which 'took up the courts' time that could be otherwise dedicated to ongoing matters, impeding their resolution'. Grabowski believed this meant that, 'it would be necessary to establish a separate commission that would rule in bankruptcy estate cases only'.⁴³ The motion of the Court Section's President was received favourably by the Committee, which 'approved it all the more readily since the cases mentioned go on at a great expense and exhaust the funds of bankruptcy estates due to creditors'. The Committee ordered the Section to consider whether 'a single such commission will suffice for the entire country'.⁴⁴

These were the early sessions of the Civil Reform Committee. Its members had not yet had the time to fully engage in their work. Most of them supported the opinion of the Court Section. They observed that the overarching idea of Alexander's order was to strive to 'restore the national spirit'. They underscored the fact that their views stemmed from the ideological conviction that it is always better for a law to be clad in the clothes of a national code. They argued that it is 'always more pleasant for a nation to have its own procedure rather than a foreign one', even if the latter one is thoroughly and appropriately adapted to the local relations⁴⁵. Therefore, the crux of the matter was the propagandist announcement of the beginning of work on the national codification and of the annihilation of foreign, imposed laws.

⁴⁰ Ibid., pp. 175-176.

⁴¹ Ibid., p. 14.

⁴² Ibid.

⁴³ Ibid., p. 153.

⁴⁴ Ibid., p. 154.

⁴⁵ Ibid., pp. 25-26.

IV. CONCLUSION

It should finally be noted that regardless of the universal consensus as to the general direction of the reform, neither the draft of the Civil Reform Committee nor later drafts presented by subsequent commissions appointed to prepare the reorganization of the judiciary were ever adopted in the Kingdom of Poland. Each time it was on the table, the development was impeded by some political obstacle (such as lack of consent of the Sejm or of the monarch) which made it impossible to put the reform into effect. Simultaneously, the Polish elites were becoming more and more familiar with the professional judiciary, modelled after the French solution and ultimately implemented in the times of the Duchy of Warsaw. As everything stabilized, criticism of the system was gradually waning. In the end, the attempts to abolish the professional judiciary were stifled by the outbreak and collapse of the November Uprising in 1831, which marked the beginning of a new era of increasing dependence on Russia for the Polish territories.

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Establishing republican order in rural areas: actions taken by the Republican Guard's mobile columns in the Cisalpine Republic (1797-1798)

Francesco Dendena

I. INTRODUCTION

The Ancien Régime collapsed northern Italy during spring 1796. This brought both brutal and unprecedented consequences. They were brutal because linked to the military victory led by General Bonaparte and his armies, and not due to any internal government crisis, as was the case in France just years earlier.² This event created unprecedented spaces for popular participation in the heart of a new republican city, which was modelled on the French. The Year III Constitution was meant to become - with a few slight variations - the fundamental law of the new Cisalpine Republic, which was founded in 1797. Most importantly, a daily reappropriation of the revolutionarian habits was being seen and, in doing so, becoming the conveyers of democratisation and republicanism of the previous society.³ The new Republic was born, through the prism of the - and sometimes cynical - interests, of the French occupying power, the suffering inflicted by the war devastation, in a political framework in which limits were set by the Grande Nation.⁴ Nonetheless, it is still true that the coming of the Revolution greatly altered the citizens everyday life and constituted a profound mutation towards a new area,⁵ in which the national guard's creation and establishment made it one ground-breaking innovation.⁶

Whereas it was formerly assigned to professional forces or to city militia and organised in the fashion of the Ancien Régime corporations,⁷ the responsibility of maintaining the

¹ Methodological note of the author: all the sources of archive, in Italian, have been translated into English.

² The circulation and penetration of the revolutionary message in Italy have been repeatedly studied: Godochot, *La Grande Nation*, and Capra, *Letà rivoluzionaria e napoleonica*. However, the solidity of the political system of Ancien Régime has never been questioned, see: De Francesco, *L'Italia di Bonaparte*, pp. 3-13. Bertrand, Frégné, Giaccone, *La France et l'Italie*, pp. 65-77.

³ On relations between the Great Nation and the Cisalpine Republic: Zaghi, *Il Direttorio francese*. De Francesco, 'An unwelcome sister republic', pp. 211-215.

⁴ This aspect has been sufficiently emphasized by classical historiography: Zaghi, *Il Direttorio francese*. Sciout, *Le Directoire*. See also De Francesco, *Storie dell'Italia*, pp. 41-65.

⁵ About the impact of the Revolution on everyday life, see: Jourdan, *La Révolution, une exception*, pp. 143-211. About the Italian framework, Michael Broers, however, expresses another position: Broers, *The Napoleonic Empire*, pp. 25-39.

⁶ On this aspect, Livio Antonielli expresses a different judgment, emphasizing the administrative continuity with the previous militias: Antonielli, 'La polizia nello stato di Milano', pp. 131-133.

⁷ About urban militias: *Ibid.*, pp. 118-119. Antonielli, 'Les réformes de la police', pp. 159-181. There are

law and order in the spring of 1796 fell to ‘all male citizens and their sons capable of bearing arms.’ The exercise of ‘the rights of citizen’ consisted in an actual and ongoing contribution to the implementation of the Republican order under development.⁸ This major break, was marked by the emergence of a new kind of armed force capable of overriding the traditional recruiting practices of the forces of public order. The implications it brought forth were the affirmation of a new pact – between the citizens and the authorities – which guaranteed the individual’s rights and freedoms that then ensued from the collective and shared reappropriation of power in the name of law. From that moment on, the power was placed in the hands of the citizens to which it would serve collectively.⁹ Although, the rearrangement of the sovereign power and the actual exercise of sovereignty could not be separated, and it was accompanied by the establishment of an unparalleled republican isonomy. This new kind of relationship was built upon a collective participation to the State affairs, which became the only guarantee against any risks of dissension or any kind of outbreak of tyranny, thanks to the perfect superposition, in the same figure, of the National Guard of the one who held the authority and of the administered who underwent it, though determining it.

Taking this into consideration, studying the organisational processes of the National Guard in Sister republics, its social composition and its operational practices, we note that their actions were an opportunity to focus on the innovations led by the Revolution in terms of the policing of the social and juridical order. On the other hand, this also represented a reason to question the construction of the new political order, its installation in a context of repressing different ways of dissidence and criminality, to which the political order had to face in a climate of mutations of the political principles that founded its legitimacy. The issue is not only to understand the ways that the land was monitored, but also to include these procedures into the process of state-building that they belonged to. The aim was to reflect upon this form of popular participation, not only through the birth of republican institutions but also through their consolidation, during the period of the ‘la transition délicate entre le temps guerrier de l’intrusion [...] et le temps policier de l’administration.’¹⁰ This period appeared to be complex not just because of the criminal phenomena it occurred at a time with a tough political backdrop. In effect, the pacification and the normalisation of the social branch took place in a context of ‘pre legitimacy’ of

other useful considerations, though questionable, in Broers, *The Napoleonic Empire*, p. 33. Moreover, the numerous works written or promoted by Livio Antonielli constitute an unavoidable reference on the subject. If the site of the Centro Interuniversitario di Studi ‘the Polizie e il Controllo del Territorio’ presents a complete bibliography on the subject: <https://www.cepoc.it/materiali/bibliografia-nota/bibliografia-autori>, consulted on 23 September 2018. I quote here only the work consulted to write this article.

⁸ Art. 277 and art. 279 of the Cisalpine Constitution (URL: <http://www.dircost.unito.it/cs/docs/cisalpin1797.htm>, consulted on 9 October 2018). See also: Antonielli, ‘Tra Polizia e militare’, pp. 57–64.

⁹ About the history of the National Guard in France, and especially during the Revolution of 1789, see: Dupuy, *La Garde Nationale*, and Gainot, ‘La “guerre de police”’, pp. 81–82.

¹⁰ Houte, Luc, ‘Introduction’, p. 11.

the incipient state,¹¹ which had to turn the action of law enforcement into a means of elaboration of a consensus used for its own advantage.

Those two imperatives, political on one hand and of a policing nature on the other hand, they justified the creation of the national Cisalpine Guard's mobile columns, on 27 Thermidor Year V (14 August 1797). They should represent a strength able "to break down the pernicious occurrences of aggressions, extorsions, and arsons that afflict the rural areas" which were of close proximity to the city of Milan, having been elevated to the rank of capital of the new Republic.¹² According to the Cisalpine ministry of Police Gaetano Porro, who organizes the columns,¹³ the threat was so serious that maintaining this climate of unrest would threaten the states survival as well as the supply of the armed forces. Indeed, these gangs of 'robbers, who are trained by deserters or any other unpunished and vicious subjects, jeopardise the peaceful farmers, plundering them and those of our Republic'.¹⁴ Would the ministry inflate the situation? This question is difficult to answer, and this does not really matter basically. His posture showed less the real weakness of the republican institutions than it expressed their elitist fears. The word "robber" had several meanings in the revolutionarian language. It described as much a criminal reality as any kind of real or purely imaginary resistance to the process of State building.¹⁵ The denouncing of the danger those 'robbers' represented, shows that the eradication of crime should be reinforced by a work of republicanism of rural areas, through the conquest of geographical locations, the representation of which remained quartered between the timeless myth of the good peasant and the counter-revolutionary memory.

II. THE CREATION OF THE MOBILE COLUMNS

It was the wish of Bonaparte who at this time was the Commander in Chief of the Army of Italy, to create the mobile columns. This move represented the culmination of the National Guard's organisation which started right after Milan was occupied in May 1796, and continued in the cities of the Republic until months later.¹⁶ The aim of organising the mobile columns was a logical political move, it was recognised that villages or other little rural town remained territories which were sometimes unknown, sometimes not well controlled by the State.¹⁷ It was thus more than essential to settle there the Republican au-

¹¹ About the concept of 'pre legitimacy': Ferrero, *Pouvoir*.

¹² Archivi di Stato di Milano (thereafter ASM), *Militare*, parte antica, 147.

¹³ About Gaetano Porro, see: De Francesco, *Gaetano Lodovico Baldassarre Porro Schiaffinati*, online (URL: [http://www.treccani.it/enciclopedia/porro-schiaffinati-gaetano-lodovico-baldassarre_\(Dizionario-Biografico\)/](http://www.treccani.it/enciclopedia/porro-schiaffinati-gaetano-lodovico-baldassarre_(Dizionario-Biografico)/) consulted 9 October 2018).

¹⁴ ASM, *Militare*, parte antica, 147.

¹⁵ About the relationship between brigandage and desertion, see: Forrest, 'Déserteurs et brigands', but also: Rousseaux, 'Rebelles ou brigands?', pp. 101-132.

¹⁶ On the organization of the sedentary National Guard of Milan: Antonielli, 'Tra Polizia e militare', pp. 65-73.

¹⁷ From this point of view, continuity with the old regime is important, especially since the collapse of absolutism causes that of forms of rural militia reactivated during the 1770s. For the first aspect: Capra, *Ci-*

thority through “active and effective means” able to ‘remedy the slowness of the standard methods’.¹⁸

This fact justifies the operational structure of the mobile columns followed a different pattern to those formerly created by the directorial France, in Floréal year IV, whose design had inspired Bonaparte.¹⁹ In both cases, the sedentary National Guard of the large cities constituted a hiring pool entirely made of men who volunteered to join the mobile troops.²⁰ In France like in Lombardia, the mobile columns’ action and discipline were ruled by the National Guard’s status stationed in the cities.²¹ Nonetheless, it would be complex to find other common points between these two experiments. On one hand, Bonaparte insisted on the militarisation of the Cisalpine group, conceding more power to the officers who were directly chosen by political authorities instead of being elected by the troops. On the other hand, the commander in chief ensured the new organisations their complete operational autonomy, which left them appearing like independent forces under the direct control of the supreme authority of the Republic, in other words, the Cisalpine Directory. This made it possible to firstly use, and then scatter them once these exceptional circumstances, that justified their creation, have ceased.²²

These decisions deeply changed the mobile forces framework, compared to the French situation, because they weakened the link between local administrations and this type of organisations. The latter were formerly conceived as an extraordinary and punctual appeal aimed at restoring public order disrupted by local elements.²³ The decree of 27 Thermidor entailed provisions in which left a voluntary power strongly militarised and politi-

serani, ‘Criminalità e repressione’, pp. 1-25. On the same subject: Solavaggione, ‘Brigantaggio e contrabbando’, vol. 54, I, pp. 23-49 and II, pp. 375-419. More recently: Antonielli, ‘Il controllo delle campagne lombarde’, pp. 1-19.

¹⁸ ASM, Militare, parte antica, 147. The creation of the columns is preceded by the approval of the provisional laws against ‘thieves and criminals’, which established the criminal court and the law against ‘the enemies of public order’ (Raccolta delle leggi, III, pp. 99-101). The existence of a legal framework makes the mobile columns profoundly different from the revolutionary armies studied by Richard Cobb, who were ‘above all groups of armed civilians, [...] they do not militarize, and civil armies have all the weaknesses’ (Cobb, *Les armées Révolutionnaires*, vol. 1, p. 1).

¹⁹ The use of mobile columns, composed by soldiers, was not unknown in Lombardy during the 18th century. See: Capra, Ciserani, ‘Criminalità e repressione’, pp. 20-22. For France, see: ‘Arrêté du Directoire exécutif portant établissement [sic] de Colonnes mobiles dans la Garde nationale sédentaire’ of 17 Floréal an IV (6 May 1796): *Collection générale des lois*, II, p. 118.

²⁰ Art. 2 and art. 3 of the law on mobile columns promulgated by General Bonaparte on 27 Thermidor year V (1 August 1797) (AMS, Militare, parte antica, 147). The commander of the mobile columns is chosen directly by the executive power on 11 Thermidor is the adjutant general of the Milan National Guard Giovanni Battista Bertoglio. The officers responsible for three columns are named on 29 Thermidor Year V (3 August 1797) in the people of Cornelio Garbagnati, surgeon at the city hospital, Giuseppe Strazza, merchant, and Francesco Zucconi, unknown profession (Ibid.).

²¹ See also the regulation drawn up by the commander Bertoglio (Ibid.).

²² Art. 10 of the law on mobile columns. While the political responsibility for the use of mobile columns fell on the Directory, their armament and equipment were the responsibility of the Minister of War, their use in the field decided by the Minister of Police. These provisions are specified by the directive of the Directory of 18 Thermidor Year V (5 August 1797) (Ibid.).

²³ About the use of mobile columns in France, see: Clay, ‘La Garde Nationale en Provence’, pp. 359-370. Sotocasa, *Les Brigands et la Révolution*, pp. 335-339.

cised, which rule was to intervene on a 'national' scale, in order to pacify the rural areas, a 'guerre de police',²⁴ was being fought against organised crime, it was orchestrated and led by the highest instances of the State against large scale banditry.

Each of them being composed of around fifty volunteers, which were under the command of a captain,²⁵ the three mobile columns were able to deploy and support heavy firepower allowing coverage of a wide geographical area. Their actions were decided thanks to the pieces of information received downstream, by the executive power (or even, when appropriate, by local populations) while Commissioners of Justice were sent to the operating sites to make a selection of the captives, deciding whether they were offered immediate release or referral to the Milan criminal Courts.²⁶ In other words, the mobile columns represented a 'provisional' and 'imposed by the circumstances',²⁷ institution while still being strong power, this was evidenced by its means and support: Each officer had his own funds and, in the event of a dispute, the commander could address the highest instances of the Republic in order to impose his own standpoint. It could also be regarded that the volunteers enrolment and weaponry were settled at the expense of other armed corps, who reported demise of thousands of rifles but also the sudden departure of tens of national guards?²⁸

Confronted by this urgent situation, the actions of the first patrol of the cities southern boundaries came before the official constitution of this organisation.²⁹ In the meantime, in Milan, at the troop's barracks, officers began the process of quickly recruiting volunteers who were chosen among the members of the central companies and the chasseurs.³⁰ Among those citizens-soldiers of urban origin, 98% of them were born inside the city or in its urban fringe.³¹ Most of them belonged to the urban working class and were affected by the economic downturn of the city.

²⁴ Gainot, 'La "guerre de police"' pp. 81-82.

²⁵ Each column is composed of forty-eight volunteers, five non-commissioned officers, two lieutenants and a captain (ASM, Militaire, parte antica, 147).

²⁶ Art. XII and XIII of the law on mobile columns. These commissioners of justice had under their command men on horseback who were to ensure the transfer of prisoners in the city (Ibid.).

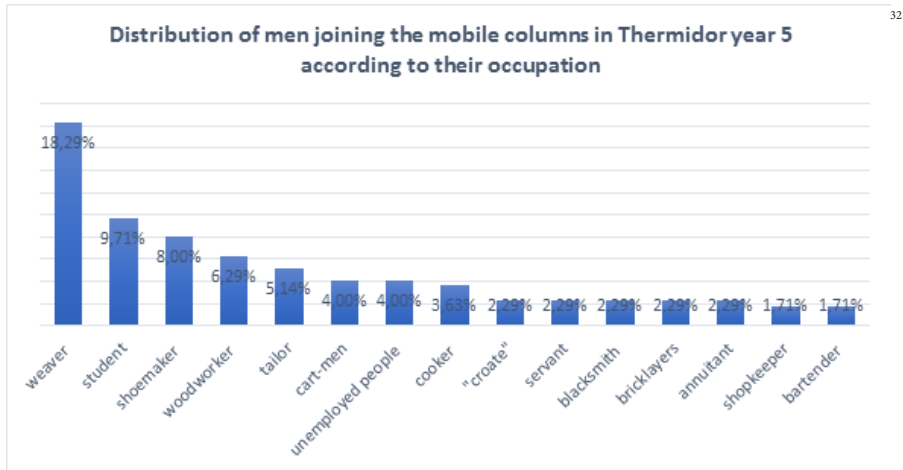
²⁷ Ibid.

²⁸ For the organization of the Milanese National Guard: Raccolta delle leggi, III, 3, pp. 22-23.

²⁹ The first report concerns the operations carried out by two provisional columns of forty-five volunteers between the 11 and 14 Thermidor year V (29 July-1 August 1797). A second action, this time done by a hundred men, is launched between the 18 and on the 26 Thermidor year V (13 August 1797) (ASM, Militaire, parte antica, 147).

³⁰ Recruitment operations are completed on 29 Thermidor Year V (16 August 1797), but the columns will take up position in their bases the first days of Fructidor (Ibid.).

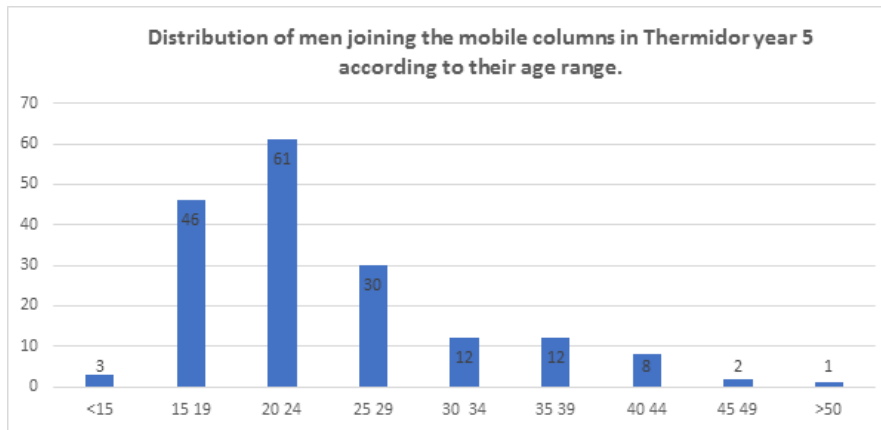
³¹ Punctual recruitments are made at the sites of operation. In total there are a dozen men, half of whom are foreigners (Ibid., 147-149). See the following note.



Weavers represented one fifth of the total of volunteers (18.3%), followed by other artisans or other manual workers such as shoemakers (8%), woodworkers (6.3%), tailors (5.1%) or cart-men (4%). Beyond the differences of work, those low-income professionals found in the regularity of their new salary a means to move beyond this casualisation, imposed by the economic conditions. It was to be found particularly true of the younger workforce. 61.7% of them did not reach the age 25 years old, which indirectly means that they might be workers rather than masters, leading them to be entrenched in the working-class structures. Students made up (9.7%) and annuitants (2.3% of the total)³³, who almost always held positions of responsibility, such as deputy officers or officers, which also shows that this assumption of responsibility attracted lower classes and was equally a kind of self-promotion within the republican society. Enrolling in the army demonstrated that the social and economical factors were in line with a real ideological re-involvement of the National Guard.

³² Here and elsewhere, I have only elaborated data concerning men engaged in Thermidor Year V, the only ones concerning age and occupation. No information is available on the other hand about their civil status. Then, out of the total of 175 cases identified, I took into account only the most significant categories, those that exceed 1% of the total (ASM, Militare, parte antica, 147). Among these, we note that 'croate' associated with names, however, typically Milanese. No profession was so designated in the eighteenth century, with all probability they are deserters of Slavic regiments in the service of the Republic of Venice, whose names were Italianized. Other foreigners (at least one Romanian, two French, two Spaniards and one Piedmontese) are enlisted during the winter to fill the voids left by desertions (Ibid., 149).

³³ The important presence of students is also explained by the closing of educational institutions, promoted by the Cisalpine Republic, for their reform. See: Brambilla, *Università e professioni*, pp. 467-481).



It is telling in that respect that enrolling in the mobile columns was not seen as an extension or the beginning of a military career. Of those who had decided to join the troops, less than 5% of men were formerly in the military and around 9.7%, were armed force when it dissolved in Ventôse year VI, or February 1798.³⁴ Enlisting in the mobiles columns was always considered as an interlude before coming back to the civilian life, in one's home town. These elements explain the high rate of desertions that affected mobile columns throughout the fall, when 22.2% of men decided to leave the troops with no authorisation.³⁵ Defections increased when there was a delay in payment, the enforcement operations took too long and moving away from Milan towards the Republic boundaries. From the volunteers' view point, these elements changed the temporary nature of their situation and showed them the economic benefits they thought they could obtain would be lower.³⁶ Henceforth, the fact to desert became the evidence that would quickly drive a wedge between male field workers and the political power's expectations. This power would likely turn citizens-soldiers into an ongoing repressive professional force.

III. REPRESSIVE USES AND RELATIONSHIPS WITH RURAL AREAS POPULATIONS

The mobiles columns' first actions could be compared to simple raids, at the end of Thermidor, when the three troops were settled in their headquarters situated twenty kilometres away from the city,³⁷ their actions were repeated and more intense, following a pre-

³⁴ Only 17 men, including the officers, will engage the 3 Ventose Year VI (21 February 1798), in the troops of line, including six officers (ASM, Militare, parte antica, 149).

³⁵ In total, 39 men out of 175 deserts (Ibid., 147 and 149, passim.)

³⁶ In their reports, the officers emphasize that their men 'have other incomes to feed their families than their national salary' and that the regularity of payments is a major stake to guarantee the cohesion of the ranks. Ibid, 147. Despite the efforts of Minister Porro, the Executive Board is never in a position to ensure a regular transfer of funds (Ibid., 149).

³⁷ The columns are placed at Melzo to protect the link with Bergamo, at Marignano to clean the roads to

cise *modus operandi* in accordance with the commander in chief of the *Armée d'Italie* instructions. Managed in an autonomous way by a captain who was constantly in contact with Milan headquarters, the columns intervened on the field by little groups that crisscrossed along sides of the roads leading towards the capital. Because collective actions demanded the participation of several tens of men were quite exceptional, the tactical deployment of troops quickly evolved into a routine that lasted for nine weeks without appreciable variation of time. These small troops were particularly active during evening and night-time hours, and would gather together by sunrise, when the National Guards would take up their positions in surrounding villages.

Even though their actions mainly took place away from densely populated areas, in the form of rummages of isolated farms, dwellings, or cabarets, where most of arrests occurred, the little town represented not only a key place in the implementation of the political mission of the mobile columns, but also in the groundwork for future activities. During their stay in the boroughs, the National Guards would demonstrate the presence of the State on the local population and re-establish confidence pact between constituents and the Republic. This is done through public ceremonies such as volunteers' parade or plantings of trees of freedom on the main place of the village.³⁸ Most of the time, the relationship was limited to public discourses between officers on one hand, and local authorities and citizens on the other hand. The latter seized the opportunity to denounce suspicious person or activities, which could facilitate the action of maintenance of law and order.³⁹ On another note, even though the requisitioning of local guides became a usual procedure, it was more exceptional to see populations directly participating to the operations, despite the National Guards urging. As mentioned in one of the first reports sent to the Ministry of Police,⁴⁰ fears of reprisals 'against people or dwellings' were too strong. When the villagers took up arms to help the troops, they did refuse to go near the prisoners, with concerns they would be identified.⁴¹

This peasants' mistrust was linked to the awareness of the weakness of the repressive machinery, supposed to ensure order but it has also to do with a feeling of distrust towards the National Guards. This feeling could scarcely be seen through an active resistance against the troop's arrivals, (gunshots or sound of tocsin), nonetheless this hostility remained dormant, which exacerbated the troops and their officers' feelings of

Bologna and Abbiategrosso to cover the way to the Alps and Turin (Ibid., 147). These are the places traditionally affected by strong rural crime. For the 18th century, see: Capra, Ciserani, 'Criminalità e repressione', pp. 3-5.

³⁸ ASM, Militare, parte antica, 147.

³⁹ See for example the operations of 18 Thermidor Year V (5 August 1797), when the communes provide 'guides, explorers and village men in number of 58' to facilitate the operations of the columns (Ibid.). To 'facilitate' relations with the civilian population and encourage them to collaborate, the captains have the sums which they distribute at will from 7 Fructidor year V (22 August 1797) (Ibid.).

⁴⁰ Ibid.

⁴¹ For example, in the vicinity of Pavia, the column manages to seize a man named Giardinetto, 'a man of very bad reputation, brigand, murderer, arsonist, thief and deserter: [...] It must be observed that while the volunteers showed the greatest courage, the men of the village did not even dare to approach the robber and handcuff him while he was disarmed and he invited them [to do so]' (Ibid.).

insecurity. This 'scorn towards Republicans' felt by the guards partly explained their violence, in particular in the limits of the *département* of Olona, when volunteers intervened in Republic of Venice's former lands, lately operated under the authority of the Cisalpine Republic.⁴² In 'this really dangerous country', a land totally unknown by those men coming from the cities and who even did not share the same dialects as local populations, the National Guards operations were tarnished by a large amount of exactions that occurred nowhere else, like robbery, damage, threats to the civil population. In Cassano d'Adda, deputy officers, as a direct result of not being housed, pointed an arm at the mayor of the city, who was unable to satisfy their demands. In the *département* of Serio (Bergame), the first and only mission ended by a general fight between mobile columns and local National Guards.⁴³

At the same period of time, several farms in the surroundings complained about arbitrary requisitions and irruptions into private spaces for no apparent reason.⁴⁴ Lessened into 'jokes' by the main officers, these actions infuriated local authorities which did not wait to denounce to the central power, the indignity 'of Our republic'. As it was pointed out by the community of Crema, on Vendémiaire year V, 'there is no more efficient means to disgust the People than these exactions, and the contempt of some of the agents. All the energies should be involved, Citizens, to avoid to leave these crimes unpunished and in order to avoid any disturbances, that could constantly occur'.⁴⁵ The warning, which was an implicit threat of a peasant revolt against armed forces, revealed the state of weakness and of tiredness of the villages communities after two years of war. On the one hand, it illustrated the appropriation of the republican message, the expectations of the change it generated in the little town. Besides, this also showed the deception induced by the mobile columns' unethical actions, the repetition of which put into question the citizens' confidence.⁴⁶

If these misdemeanours blemished the political message, that the mobile columns illustrated, was their repressive action efficient? Reports sent to the Ministry of Police seemed to show evidence of a quick improvement of the situation. On 14 Fructidor Year VI (31 August 1797), Commissioner for Justice, seconded to the column of Abbiategrasso, indicated that 'the national guards are efficient and less robberies and muggings are reported, compared to the past'.⁴⁷ Far from being isolated, this assessment of the situation

⁴² Ibid.

⁴³ See the report of 8 Fructidor Year V (25 August 1797) (Ibid.).

⁴⁴ On 19 Fructidor year V (5 September 1797), the Column Commander at Melzo was forced to dismiss national guards because of their indiscipline and thefts committed against the local population (Ibid.). In total, nine National Guards will be expelled from the ranks for unworthy behaviour (Ibid., 147-149, *passim*).

⁴⁵ Ibid., 148.

⁴⁶ Mobile columns replicate the same behaviours of those that had been deployed in previous decades. See: Capra, Ciserani, 'Criminalità e repressione', pp. 20-21. It should be pointed out, however, that the passage of mobile columns sometimes encourages emulation, as in Gallarate where volunteers propose to the Directory to form a fourth column on 6 Fructidor year V (23 August 1797). The proposal has no follow-up (ASM, Militare, part antica, 147).

⁴⁷ Ibid.

was confirmed by the pieces of information collected by other groups. On second complementary day year V (18 September 1797), the commanding of the columns Bertoglio could finally propose a redeployment of his troops, since 'the inside stillness authorises the use of columns to prevent illegal transport of wheat', which took place on the Republic southern boundaries.⁴⁸ Even if, in reality, the actions to pacify the rural areas lasted a few weeks, and a column went on crisscrossing across the countryside and ensuring safety in the villages around Pavia, while others were sent elsewhere to counter smuggling operations,⁴⁹ this evolution of the mobile columns' actions encourages to investigate on the real aims of the maintenance of law and order in the mobile columns.



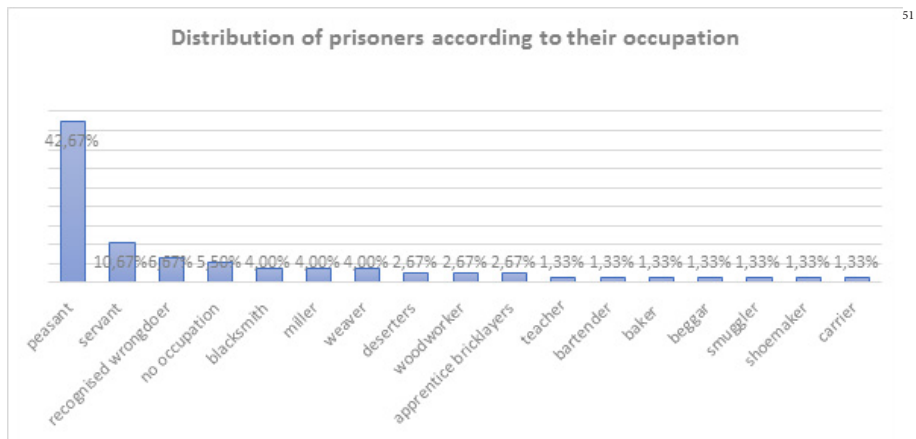
In green, the mobile columns' position in the fight against banditry (Thermidor year V, Vendémiaire year VI). In red, position adopted to struggle against the illegal trade of wheat. (Vendémiaire Brumaire, year VI).

⁴⁸ Ibid. These places were the hub of contraband since the beginning of the century (Solavagione, 'Brigantaggio e contrabbando', II, p. 375).

⁴⁹ ASM, Militare, part antica, 148.

IV. FROM TRACKING DOWN ROBBERY TO THE REPRESSION OF MARGINALS

The mobile columns could both efficiently and rapidly struggle against robbery because there was nobody to arrest since they met no opposition along their patrols in the Lombardy plains, without any other form of resistance both collective or organised. Ample evidence of this was the arrestation forms, which were often inchoate, and the reports of operations sent to the mobile columns' headquarters. These documents permitted to recount, with near precise detail, the actions led on the field by volunteers as well as the profiles of the 131 arrested citizens. Within nine weeks, (from 11 Thermidor Year VI to 21 Vendémiaire Year VI, or from 29 July to 11 October 1797), the mobile columns proceeded to solely two collective arrests of groups of more than ten people.⁵⁰



Most of the time, patrols arrested individuals or small groups of up to four people, composed by young men (26 years old on average) and 42.7% of them were ordinary peasants or at times servants (10.7%) who were unable to justify their presence on site.⁵² It was quite rare to see professional criminals such as smugglers or wanted thieves, in which arrests were recognised as a real success by the Ministry of Police. Even though the informers of the Ministry of Police continued to allude the existence of criminal organisations hidden in the woods,⁵³ the authorities pursued these claims to no avail with only tracks left behind which led to the arrests of marginal or petty criminals. Their exi-

⁵⁰ One of the two is due to a brawl broke out at the time of the arrival of the troops. Figures obtained from the compilation of data in *Ibid.*, 147 and 148.

⁵¹ *Ibid.*, 147.

⁵² *Ibid.*

⁵³ See, for example, the report drawn up on the 1 Fructidor Year V (18 August 1797), but especially that of the 5 Fructidor year V (22 August 1797), addressed to the Directory, which is very detailed. It mentions four gangs of criminals who operate at the eastern margins of the department of Olona. Even if the column of Melzo will be directed in these places in the hunt for a band of thirty 'robbers' around Caravaggio, she cannot find them. 15 Fructidor Year V (1 September 1797) (*Ibid.*, 147).

stence could be explained by the absence of any State control and by the existence of several deserters in Lombardy.⁵⁴ The course of justice was led against characters on the fringe of peasant society, who were not totally excluded of it. Even though they were seen as dangerous or suspicious by local communities, they remained tolerated. With the fear of reprisals, the local population were left with a presence which was both infrequent and yet at time permanent, right up to the moment when the mobile columns arrival became the opportunity to get rid of them. For instance, a miller and his son were denounced by villagers because of their 'bad reputation'. They were found in their bed with:

The son: a Croatian rifle, a loaded shotgun, a knife with a bone handle in a damaged sheath, a satchel for powder, small calibre ammunitions, two rifle bullets, sixty Piedmont pounds of high-denomination banknotes, three ecus of France, one Spanish gold coin, one Milanese ecu, a finely engraved time piece etched with the face of the Roy de Paris, three policemen's handcuffs.

The father: an old shotgun, a short rifle, a knife, ammunitions of all calibres.⁵⁵

As seen in this example, more than one third (35.3%) of the arrests led by the National Guard could be justified by suspected thefts, concealment of property, both of them being demonstrated by search operations on site, or, most of the time, justified by mere declarations from the neighbours. Certainly, the ongoing increase of requests for cartridges showed that the National Guard had to confront real resistance.⁵⁶ Nonetheless, it must be recognised that the crimes of the accused remained 'des méfaits plutôt ordinaires, commis dans des circonstances banales. Il s'agit moins de meurtres [non-existent in the cisalpine case] ou de vols de grand chemin que de petits larcins, chapardages ou de maraudages'.⁵⁷ These actions are the direct result of poverty, which was only exacerbated by the war, which perfectly ensured the continuity of the 18th century with traditional criminal activities. Written in November 1791 by the city of Pavia, these lines could not be called into question six years later:

The real *balossi* [wrongdoers, in the dialect of Lombardy] are the slackers and the tramps coming from the national rural areas as well as from foreign countries and the latest are the most dangerous. They lived thanks to the resources they could procure daily, either innocently, or by the fear they provoked on peasants, threatening them to set fire isolated farms. They moved around constantly from shelter to shelter, and they rarely accepted any form of temporary employ.⁵⁸

Inspecting the roads and controlling those who proceeded them is in fact a crucial issue for the mobile columns. They multiplied the number of arrests for deserters and fo-

⁵⁴ Several reports highlight the effects of the presence of 'deserters from all armies and other individuals brought by them who submerge the Republic' (Ibid.).

⁵⁵ Ibid.

⁵⁶ Par exemple, le 1 fructidor an V (18 août 1797), les colonnes reçoivent 1620 cartouches, dix par volontaire, qui sont épuisées le 17 vendémiaire an VI (8 octobre 1797) (Ibid.).

⁵⁷ Forrest, 'Déserteurs et brigands sous la Révolution et l'Empire: état de la question', p. 101.

⁵⁸ Passage quoted by Capra, Ciserani, 'Criminalità e repressione', p. 9. About the crimes committed: Ibid., p. 11.

reigners (18% of the cases), of citizens without safety card (10%) or in possession of fire-arms without permission (9%). They would either be expelled from the Republic in one case, or sent back home in the other case, all the citizens were immediately released by the seconded Commissioners of Justice. Only 62.3% of the prisoners arrested by the National Guards were presented to the criminal Court of Milan, including the men accused of vagrancy and idleness. It is allowed to wonder how many of them were really condemned. This is impossible to quantify precisely, nevertheless, the first trials, held in Thermidor, led to a fight between the judges and the Ministry of Police Gaetano Porro. The minister demanded his magistrates to 'use evidence to show the guilt of common enemies of the Republic in order to inflict them a doctrinal punishment in public', the judges replied that, most of the times, the accused are mere citizens 'who are neither idle nor wrongdoers, but only men who devote their time to a peaceful work and who have no equivocal conduct' pleading for their acquittal.⁵⁹ Formulated at the beginning of the mobile columns activity, those considerations would not be able to sum up the aporia of this experiment of popular and revolutionary law enforcement. They revealed all the same tensions that characterised the period and explained, in fine, the dissolution of those organisations, on Ventôse year VI, (February 1798).

V. CONCLUSION

Certainly, one can recognise that the mobile columns had failures and setbacks from Vendémiaire Year V (October 1797), which forced the Cisalpine authorities to make quick decisions. Upon ceasing operations against wanted felons, who remained untraceable, the mobile columns were deployed along the boundaries. Firstly, on the west, close to Tessin to tackle illegal trade of grain, then on the east side, in the Bergamasque mountains, in order to fend off the incursion from the Trentin area. In both cases, they were unable to effectively cope against heavily armed groups. During the first theatre of operations, well organized gangs, supported by local populations,⁶⁰ passed through or succeeded in avoided detection at the National Guard's roadblocks. Weeks later, because they were weakened by desertions and had settled in a hostile environment, volunteers renounced to persecute actively foreign smugglers who would cross the frontier, before snow could obstruct mountain passes.⁶¹ This inactivity is interrupted by the 'battle of 9 Nivôse' year VI, which ended without casualties nor injuries. It was the last stand for the mobile columns.⁶²

Overwrought by the relationships with local communities, upset by the inefficiency of the volunteers, the Cisalpine Directoire decided to call them back to the capital and to

⁵⁹ See exchange of 17 and 19 Thermidor (ASM, Militare, parte antica, 147). The same considerations are repeated on the 19 Fructidor, Year V (5 September 1797) (Ibid.).

⁶⁰ According to the reports sent to the Directory, people were shooting on the mobile columns in order to make the smuggler's escape as safe as they could (Ibid., 148).

⁶¹ Ibid., 149.

⁶² Ibid.

dissolve mobile columns, refusing to grant them with any military honours.⁶³ The proposition of a prolongation of their involvement in the troops ended on a total breakdown: 95% of them and two thirds of the officers left the army as early as the last dissolution of the troops on 3 Ventôse.⁶⁴ On both sides, these behaviours were the evidence of the mixed review of this police experiment. The last events, in particular the operation in the Alps, were the opportunity to highlight the limits, showing it was impossible to militarise the mobile columns, to turn them into a professional force able to deal with, to restrain or to eradicate those kinds of criminality or organised resistance, despite the expectations which had justified its creation.

Nonetheless, if one only takes these circumstances into account it would mean to forgo an analysis on the real significance of this experiment, but also of the troubles it raised in terms of popular participation to the enforcement of law and order, at a period of political changes, and that – as early as Vendémiaire and thus as early as the first operation around the capital – had already motivated the idea of a premature dissolution of those organisations.⁶⁵ Once the first period of crisis, a moment of emptiness, during the creation of the Sister republic was over, the State authority enforced slowly and gradually relegated popular participation. On one hand, forcing the creation of the départements allowed to build a viable institutional framework, which was strong and lasting, able to monitor the control of the territory, on a local scale, without the intervention of extraordinary forces. On the other hand, the implementation of the Directorial institutions, which represented a source of inspiration for the Cisalpine republic, was done through their self-empowerment towards its authorised representative, through the distinction between the exercise of citizenship and bearing of arms, which characterised the beginning of the republican experiment.

Thereupon, the dissolution of the mobile columns as a body could be considered as a way to bring in line with the repressive police actions, and generally, the forms of popular participation in this directory policy framework.⁶⁶ This marked the end of an era of exceptions, of pacification and the beginning of a stable administrative system, in which the implementation of republican isonomy was translated and imposed through the sacred status of the institutions, which was called into question by the existence of mobile columns. That is all the more true that their action had been characterised by the persistence of previous policing practices that the new republican regime wanted to go beyond. Bonaparte, who glorified, on Prairial year V (May 1797), the invincibility of a ‘whole people [when it] is armed and wants to defend its freedom,’ when he left, on 21 Brumaire Year VI (11 November 1797), merely entrusting the Cisalpine freedom to the lawmakers, the army and the Grande Nation. The lack of direct references to the people and to the National Guards was less an omission than an announcement of a new de-

⁶³ No doubt the resignations of the radical and influential Minister of Police Porro, in Brumaire year VI (October-November 1797), weakens the institution of mobile columns (*Ibid.*, 148).

⁶⁴ *Ibid.*, 149.

⁶⁵ *Ibid.*, 148.

⁶⁶ On the decline of the National Guard in France, see: Dupuy, *La garde nationale*, p. 286.

mocratic phase that the Sister republic was about to experience. In other words, as well as their creation, the mobile columns' fate was tightly linked to political reasoning. With the change from the revolutionary state to the constitutional state, the republicanisation of the north side of the peninsula moved into an unprecedented phase that demanded a new organisation of police forces.

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The National Guard, a concrete but
temporary experience of popular
participation in law enforcement.
The example of the National Guard of Lyon
from 1830 to 1871

Mathias Pareyre

The National Guard is a particularly interesting institution to study in the context of a symposium dedicated to popular participation in law enforcement, since its existence has been a very tangible moment during which the people took charge of, and actively participated in, the enforcement of public order in French cities and countryside. Unlike other law enforcement agencies in the 19th century, such as the police, the gendarmerie (the national police force), the Royal guard or the Republican guard, the National Guard was not a professional troop. It was made up of citizens who only took up arms periodically and temporarily. They had other professional occupations and did not live in barracks, but at home with their families. Created during the French Revolution, the National Guard existed, for better or worse, throughout the 19th century, as it was reconstituted in all French towns during each revolutionary outburst, before being disbanded or put in abeyance some time later.¹

Between 1830 and 1872, when it was definitely done away with,² the National Guard was reconstituted in Lyon during each of the three political regime changes. As such, it was active from July 1830 to December 1831, from February to July 1848, and from the summer of 1870 to the summer of 1871. These three relatively brief episodes (a maximum of a year and a half at the beginning of the July Monarchy, and barely five months in 1848) nevertheless opened up the possibility of a popular handling of law enforcement. Lyon citizens, like many of their compatriots, carried out daily police tasks in their city, and went as far as handing a helping hand to the line troops during the riots or insurrections that took place in Lyon throughout the 19th century.

This popular participation was spontaneous, at least initially. Indeed, the National Guard was first reorganized by the population of Lyon before the authorities, in a second phase, took over the reins and supervised it. The Lyon bourgeoisie played an active role in the reconstitution of this popular militia, and it will therefore be necessary to define

¹ Many publications offer overviews on the National guard: Girard, *La Garde nationale*. Carrot, *La Garde nationale*. Dupuy, *La Garde nationale*.

² The National guard was dissolved by the *Assemblée nationale* on 25 August 1871, then definitely abolished by the law of 27 July 1872 on the recruitment of the army.

the meaning of the word popular, since the stakes linked to the reorganization of the National Guard are quite different, and indeed even opposed, depending on whether one adopts the point of view of the bourgeoisie or that of the working classes.

The reconstitution of the National Guard also raises the question of the models and references used by the contemporaries to organize the service of the citizen militia: did the national guards introduce a new way to enforce public order, or did they reproduce existing codes and patterns? And if so, which ones?

In order to answer these questions, we will first clarify the conditions and meanings of the reorganization of the National Guard during the revolutionary outbursts. Then, we will show that the citizen militia was a law enforcement force that was largely influenced by the military model. However, we will need to highlight the fact that this popular experience of law enforcement remained systematically temporary.

I. A POPULAR FORCE IMPOSED TO THE AUTHORITIES

The National Guard was above all a 'popular' and 'revolutionary' force, in that it was imposed to the authorities during revolutions and regime changes.

1. A spontaneous and revolutionary reorganization

According to Louis Girard, one of the first historians to work on citizen militia, 'the guard was spontaneously formed when important crises arose, during which, public authorities having disappeared, the social order must be saved'³. Even though this quote cannot necessarily be applied to all of the French National Guards of the 19th century⁴, it is particularly relevant for Lyon in 1830 and 1848. During these two revolutionary outbursts, the Lyon sources bear witness to the spontaneous and revolutionary reorganization of the citizen militia.

As had been the case in other French cities as well,⁵ on 28 July 1830, upon hearing about the Parisian events, the liberal bourgeoisie of Lyon decided to re-establish the National Guard in order to put pressure on the legitimist authorities. On 28 July and the following days, deputations were thus sent to the prefecture to ask the prefect to 'make use of the natural right to constitute a national guard, so as to guarantee public peace.'⁶ However, the prefect's answers remained evasive, and on the morning of 31 July, according to the sources, 'the national guard formed itself'.⁷ Indeed, from seven in the morning on, embryonic companies of the National guard reconstituted spontaneously and by noon

³ Girard, *La Garde nationale*, p. 369.

⁴ In 1830 and in 1848, the National Guard of Marseilles was reorganized by the authorities (legitimist in July 1830, orleanist in February 1848) in the wake of the Paris events.

⁵ The conditions of the reorganization of the National Guard and the role it played from 28 July to 31 July 1830 are very similar in Lyon and in Rennes, as Axel Dröber demonstrated in his paper. See also the example of Nantes as developed in Pilbeam, 'Les barricades provinciales', pp. 73-82.

⁶ *Le Précurseur*, n° 1111, 31 July 1830.

⁷ *Ibid.*, n° 1112, 1 August 1830.

they had gathered around 1,500 men. This troop managed to put pressure on the legitimist authorities, which ended up acknowledging the reorganization of the National guard by the end of the day.⁸

In February 1848, the conditions presiding over the reorganization of the citizen militia were identical, except the fact that the initiatives to reconstitute the National Guard were only made once the news of the abdication of Louis-Philippe had been confirmed. On 25 February, the republican bourgeoisie of Lyon, united under the name 'Electoral committee of the Rhone', sent deputations 'either to the mayor or to the prefect, to ask him permission to organize the national guard that was necessary to maintain public order'.⁹ As had happened in July 1830, the authorities made evasive answers to this demand and declared that they were waiting for orders from Paris. Meanwhile, numerous groups gathered in the main squares of Lyon, including Bellecour, Terreaux and the Célestins, in order to put pressure on the authorities meeting at the Hotel de ville. In front of a large crowd, the Republic was finally proclaimed in the evening, from the balcony of the Hotel de ville, by Emile Laforest, who was then invested temporary mayor.¹⁰ Like in 1830, sources from Lyon insist on the spontaneous character of the reinstatement of the militia. In a report dated 1 March 1848, general attorney Laborie evokes this 'rapid organization of the national guard that formed spontaneously through the agency of all the good citizens, without party distinctions',¹¹ and the bourgeois Joseph Bergier wrote in his diary, on 29 February that 'the national guard is emerging everywhere, there are posts in the streets and in every neighborhood'.¹² Official reorganizations of the citizen militia in August 1830 and February-March 1848 were thus only institutionalizing and formalizing an already existing situation.

In 1870, the reasons for the reconstitution of the National Guard were different. France's declaration of war to Prussia on 19 July 1870, as well as the first French defeats in August, pushed the government to reorganize the National Guard, which was conceived most of all as a military reserve able to take charge of the defense of cities against the Prussian army. The Lyon bourgeoisie had already been demanding the re-establishment of the citizen militia since the beginning of the war¹³ when on August 8 an imperial decree announced the incorporation in the sedentary National Guard of all citizens aged 30 to 40.¹⁴ On the 12, the first article of the law pertaining to the National Guard officially stipulated that 'the National Guard [was] reinstituted in all the departments'.¹⁵ On that same day, the first control registers were already constituted in Lyon.¹⁶ But the Lyon mi-

⁸ Ibid. and Mormand, *Une semaine de révolution*, pp. 50-54.

⁹ Bergier, *Le journal d'un bourgeois*, p. 11. These remarks were written by Fanny Bergier, Joseph Bergier's wife, who sometimes wrote in her husband's diary.

¹⁰ Dutacq, *Histoire politique de Lyon*, p. 96.

¹¹ Quoted in Ibid., p. 159.

¹² Bergier, *Le journal d'un bourgeois*, p. 34.

¹³ Crestin, *Souvenirs d'un lyonnais*, pp. 58-59.

¹⁴ Dupuy, *La Garde nationale*, p. 496.

¹⁵ *Bulletin officiel du Ministère de l'intérieur*, 9, 1870, p. 304.

¹⁶ Bleton, *Journal d'un garde national*, p. 9. *Le Progrès*, n° 3704, 11 August 1870.

litia, which the authorities refused to arm, was only reorganized at the very end of August, and the first patrols only took place once the Republic had already been proclaimed. Interestingly, on 4 September, Lyon citizens proved spontaneous once more, as they massively went to the forts surrounding Lyon in order to arm themselves. Even though one of the first measures adopted by the temporary committee, which had settled in the Hotel de Ville that morning, was to proclaim the arming of the National Guard,¹⁷ Lyon citizens equipped themselves by entering rifle yards and seizing arms 'of every caliber, every model and every period'.¹⁸

2. A popular force

The reorganizations of the National Guard, particularly in 1830 and in 1848, gave birth to a popular force, since the spontaneous reconstitution of the militia was the doing of the people and not of the authorities. But the population of Lyon who asked for the reconstitution of the National Guard was mostly and almost exclusively made up of members of the bourgeoisie: liberal bourgeois in 1830, republican ones in 1848. Claude Mormand, member of the provisional administrative Commission of Lyon in August 1830, describes quite accurately the social composition of the 'enormous crowd' that demanded the reorganization of the citizen militia on 29 July 1830:

*The men forming it all belonged, without exception, to this intermediate class that has constantly protected the people against the attacks of the aristocracy, and the aristocracy against the outbursts of popular anarchy. They were merchants, foremen, bankers, doctors, young assistants, etc. Some factory workers appeared here and there, rather as spectators than as interested parties.*¹⁹

As a matter of fact, the commissioners who were chosen the following day to present to the authorities a project to reorganize of the National Guard were all eminent representatives of the Lyon liberal bourgeoisie.²⁰ It must be said that the reflex to form a National Guard is primarily a bourgeois reflex. During the 1848 revolution, the Lyon factory workers did not wish for the creation of a National Guard, but formed autonomous groups and wore red armbands as a recognition and rallying sign.²¹ The Lyon bourgeoisie was then even more eager to reconstitute the National Guard that it was scared of being overrun by the popular arming. This is illustrated by the particularly enlightening testimony of the former mayor of Croix-Rousse, a suburban town of Lyon that was attached

¹⁷ Valin, *Mémoires d'un citoyen*, p. 77.

¹⁸ Crestin, *Souvenirs d'un lyonnais*, p. 70.

¹⁹ 'Les hommes qui la composaient appartenaient sans exception à cette classe intermédiaire qui a constamment protégé le peuple contre les attaques de l'aristocratie, et l'aristocratie contre les débordements de l'anarchie populaire. C'étaient des négociants, des chefs d'atelier, des banquiers, des médecins, de jeunes commis, etc. Quelques ouvriers apparaissaient de loin en loin, plutôt comme spectateurs que comme parties intéressées.' (Mormand, *Une semaine de révolution*, p. 6).

²⁰ Doctor Trolliet, also a participant in the events and member of the provisory Commission in August 1830, presents them as 'the most regarded citizens' (Trolliet, *Lettres historiques*, p. 10).

²¹ Benoît, *Souvenirs de la République*, p. 83.

to the Lyon municipality in 1852. Interviewed at the end of the year 1848 by an inquiry commission of the Assemblée nationale, he said:

On February 26 last at around six in the morning, I learned that Mr Laforest [temporary mayor] was overwhelmed, that his deputies had been forced to retreat. Mean-looking men were at the Hotel de Ville with arms and appeared to want to form between themselves a city guard. I thought I needed to go to the city hall at once to offer my help to the Mayor and advise him to organize the National Guard immediately.²²

In February 1848, some members of the committee in charge of reorganizing the National Guard did propose to give arms only to licensed citizens²³ (which was not accepted), hence revealing the bourgeois prism of the reinstitution of the militia.

Nevertheless, even if the National Guard was reorganized by and for the bourgeoisie, at least in 1830 and 1848, it is interesting to see that it was a popular force also in the sense that it was comprised of members belonging to all the social classes, including the bourgeoisie and the proletariat. Even though during the July Monarchy, the National Guard was theoretically a bourgeois troop where only the individuals paying a personal contribution were allowed to wear the uniform,²⁴ the sources from Lyon do list many traces of the presence of members of the proletariat in the ranks of the militia. On 2 September 1830, the mayor of Lyon wrote to the legion chiefs that he knew that ‘factory workers without residence, even domestic servants were counted during controls’²⁵ of the Guard, which confirms the popular character of the militia. The opening of the guard to the proletariat is indeed made possible by the relative juridical vacuum regarding the organization of the militia that existed from the summer of 1830 to the spring of 1831.²⁶ But even after the promulgation of the law of 22 March 1831 about the National Guard, sources mention the presence of working-class members, such as Pierre Creppon, a 30 year old silk worker living at 2 rue de l’Hôpital, who did not pay a contribution but still served in the spring of 1831 in the 1st company of infantrymen of the 2nd battalion of the 3rd legion.²⁷

²² ‘Le 26 février dernier sur les six heures du matin environ j’appriis que Mr Laforest [le maire provisoire] était débordé, que ses adjoints avaient été forcés de se retirer. Des hommes de très mauvaise mine étaient à l’hôtel-de-ville avec des armes et paraissaient vouloir former entr’eux une garde urbaine. Je crus devoir me rendre immédiatement à la mairie pour offrir mon concours à M. le Maire et l’engager à organiser immédiatement la Garde nationale.’ (Archives nationales [thereafter AN], C 937, Survey in the départements, Rhône, 33, note given by Mr. Pailleron, former Croix-Rousse mayor).

²³ Benoît, *Souvenirs de la République*, p. 22.

²⁴ Ibid.

²⁵ Archives municipales de Lyon (thereafter AML), 1219 WP 001, file ‘Organisation de la garde nationale’, Instructions et règlements, 1830-1833, Letter from the mayor of Lyon to the legion chiefs.

²⁶ Larrère, *L’urne et le fusil*, pp. 58-59.

²⁷ AML, 1220 WP 34, Control of the 1st company of the 2nd battalion of the 3rd legion. It is true that the law of 22 March 1831 took into consideration the factory workers who had been part of the Guard at the time of its reconstitution. Article 19 stipulated that ‘the national guards not required to give a personal contribution but who, having served after August 1st of last year, wish to continue their service’ would join the regular service.

This popular character, already visible under the July Monarchy, was fully asserted in 1848. By proclaiming, on 24 February 1848, that all citizens were now part of the National Guard,²⁸ the provisional Government of the second Republic indeed removed wealth as a criteria needed to enter the ranks of the militia. As a matter of fact, the Lyon sources, in very lyrical passages, offer a testimony of this union of the population within the National Guard:

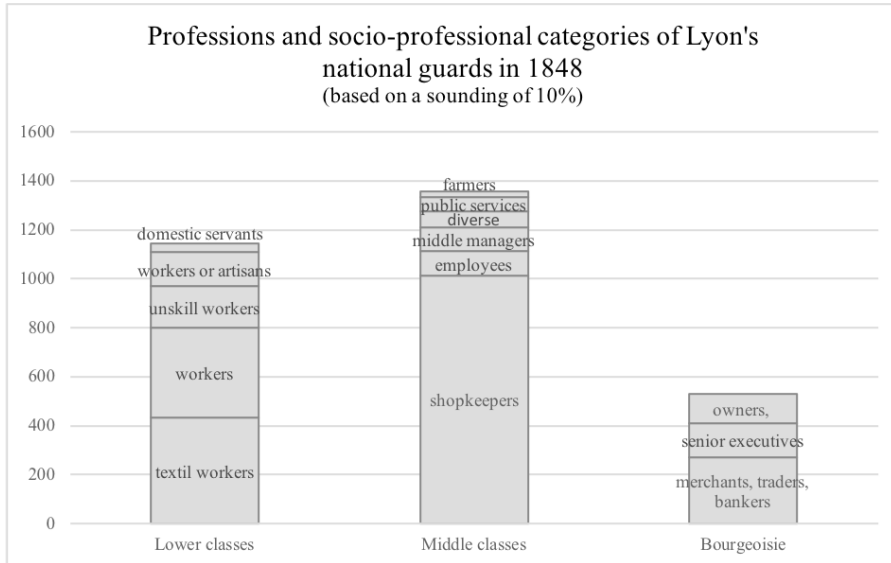
*Upon hearing the news of 24 February, the National Guard of Lyons formed spontaneously. Many cafés, being easily reachable meeting points, transformed almost everywhere and at the same time in guardhouses; former superior officers, former soldiers of all ranks and arms, rushed there along with magistrates, attorneys, civil servants and men of all social classes; the rich, the poor, the old, the young - it was a beautiful movement! The law enforcement in our city was at stake, all of them had an interest in it, all understood this necessity.*²⁹

The study of census registers of the National Guard of 1848 confirms the impression of a social blend, and really shows the popular character of the militia, as all the social classes are represented in it. A survey, carried out from the controls of the census of the Lyon militia constituted in the spring of 1848³⁰, allows us to observe that at that point, members of the working class represent more than a third of all the members of the National Guard of Lyon, whereas they were excluded from it by law under the July Monarchy.

²⁸ Le Moniteur universel, 25 February 1848.

²⁹ 'À l'annonce des événements du 24 février, la garde nationale de Lyon s'est spontanément formée. Des cafés, comme points de réunion plus faciles à aborder, se sont, presque partout, et en même temps, transformés en corps-de-garde; d'anciens officiers supérieurs, d'anciens militaires de tous les grades, de toutes armes, y accourent avec des magistrats, des avocats, des fonctionnaires publics, des hommes de toutes les classes de la société; le riche, le pauvre, le vieux, le jeune, ce fut un beau mouvement! il s'agissait du maintien de l'ordre dans notre ville, tous y avaient intérêt; tous comprirent cette nécessité.' (De la Garde nationale de Lyon. Question à l'ordre du jour (en faveur de la réorganisation de la Garde nationale). Signé: Un officier. s. d. (octobre 1848) (Lyon: Nigon, 1848, p. 1. BML 351169).

³⁰ The following chart is based on the analysis of the profession held by 3 028 guards (about 10% of the members), spread into 30 censs controls of the National Guard of Lyon, constituted during the spring of 1848 and kept at the Archives municipales de Lyon (cotes 1220 WP 086 à 1220 WP 115). The way the survey was built and the socio-professional nomenclature that allows to interpret its results is detailed in the Master's thesis: Pareyre, La garde nationale. These results are being further analyzed in the PhD thesis: Mathias Pareyre, Prendre le fusil pour défendre ou renverser les autorités: le rôle de la Garde nationale à Lyon et à Marseille dans les insurrections urbaines au XIX^e siècle, supervised by Sylvie Aprile, Université de Lille.



II. A LAW ENFORCEMENT FORCE DURING REVOLUTIONS

The National Guard was thus a 'popular' force, both imposed by the population to the authorities and a place with a mixing and diversity of people, even if the word people (peuple) was each time be defined in different, sometimes even contradictory ways. The stakes linked to the reorganization of the guard are also numerous, but the citizen militia was considered above all as a law enforcement force, the most suitable one to maintain public security during the regime changes.

1. Reconstituting the National Guard to defend order and the revolution

The reconstitution of the National Guard, conceived as the embodiment of the armed population, answers during each revolutionary episode two main concerns: guaranteeing the security of the goods and people threatened by the revolutionary troubles, and defending the revolutionary process. By definition, the National Guard is a revolutionary institution, since it is the incarnation of the people's sovereignty against royal or imperial despotism. Its reconstitution thus participates to the calling into question of the state monopoly on legitimate violence, and 'materializes the right to resist oppression'.³¹ During each revolutionary outburst, the militia was reorganized to defend the new regime (the Constitutional Monarchy in 1830, the Republic in 1848 and in 1870), and the Lyon national guards therefore became the ardent defenders of the revolutionary process.

If the revolutionary aspect can sometimes be primordial for the reconstitution of the National guard, it must nevertheless be noted that its reorganizations throughout the

³¹ Larrère, *L'urne et le fusil*, p. 14.

19th century come within the scope of the self-defense reflexes³² inherited from the modern period, and particularly from the bourgeois militias of the Ancien Regime. The National Guard, in Lyon as in the other French cities, benefits from a very strong territorial integration, and, in the context of revolutionary troubles, the reconstitution of companies very often corresponds with the reactivation of neighborhood solidarities. It is well shown through the example of Bonhomme, a mechanic who lived in Ainay (a neighborhood of the Lyon peninsula) and who, from 26 February 1848 on, took charge of the reorganization of the National Guard in his neighborhood. That same evening, he managed to gather 80 armed men who stood guard and patrolled the neighborhood to protect its goods and properties during eight days and six nights.³³

As a matter of fact, a few months after the reorganization of the National Guard, the revolutionary dimension of the militia progressively disappears in favor of a mainly security-based definition. For instance, in the order of the day of 23 August 1831, the commander of the Lyon National Guard removed all revolutionary references in his definition of the role of National guards. To him, the “purpose of their service” is only to “maintain public order and tranquility ; to attend to the safety of people and properties, and finally, to assist any public civil servant in charge of the execution of the laws”.³⁴ Incidentally, this definition of the missions of the citizen militia offers a good insight into what law enforcement meant for the commander of the Lyon National Guard in 1831.

This ambivalence, sometimes contradictory, between revolutionary agent and law enforcement force, is very perceivable at the time of the different attempts that were made to establish the Commune in Lyon during the spring of 1871. Indeed, because of its very strong social and political heterogeneity, the Guard was perceived in turns as the armed wing of the Commune and as one of the principal forces able to fight the communalist insurrection. Thereby, during the communalist insurrection of la Guillotière (one of the arrondissements of the left bank of the Rhône, and mostly working-class) on 31 April 1871, Bouret, captain of one of the Guillotière battalions, took care of naming himself commandant of the National Guard after having proclaimed the Commune from the balcony of the Guillotière city hall.³⁵ He hoped to be able to rely on the Guillotière battalions to overthrow the Lyon authorities under the orders of Versailles. Yet a few weeks earlier, the opponents of the Commune had also tried to mobilize the National Guard. After the communalist attempt to take Lyon's Hôtel de Ville on 22 March, the front page of a conservative Lyons newspaper, *Le Guignol illustré*, depicted Guignol, the emblematic Lyon marionnette, dressed as a National guard. He was calling for the Lyon population to join the ranks of the citizen militia to oppose a new communalist attempt, with much recourse to local slang: ‘C'est pas que ça risque rien, les gones : mais n'empêche, on ne sait

³² Ibid. p. 41.

³³ *La Sentinelle*, n° 4, 4 April 1848.

³⁴ AML, 1219 WP 017, Order of the day, 23 August 1831.

³⁵ Crestin, *Souvenirs d'un lyonnais*, p. 283.

pas ce qui peut arriver, mettons sur pied note garde nationale. Maintenant qu'y z'y reviennent prendre la Maison de ville !!³⁶

2. The National guard, a force at the core of a military conception of law enforcement

During the 1830, 1848 and 1870 revolutionary episodes, according to the contemporaries, it is the National guard who must be in charge of enforcing public order in French cities. One can read in the columns of the *Censeur*, the reference newspaper of Lyons in 1848, that 'in republics, permanent armies have no other purposes than to defend borders or wage war abroad. Law enforcement within the country is entrusted to citizen militias'.³⁷ If the National Guard is considered the most suitable law enforcement instrument, it is above all for practical and symbolic reasons. The citizen militia is, with the army, the only force numerically important enough on which the authorities can rely. Already, in 1828, the Rhône prefect, the Count of Brosses, demanded that the Minister of the Interior organize a paid municipal police force, so as to assist the garrison, which was insufficient in numbers and made of non-specialized soldiers, to maintain order in the city.³⁸ The National Guard is also the only force that the Lyon authorities can rely on in September 1830, the quasi-totality of the troop having been sent to suppress the troubles in Nîmes at the end of August.³⁹ The same happens in the fall of 1870, in the middle of the Franco-Prussian war, when the citizen militia carries out alone the postal service in the streets of Lyon, the garrison – strongly diminished by the troops having left for the war – being confined in the forts around the city. During revolutionary periods, the National Guard also seems to be the only legitimate law enforcement force to patrol the city, as the line troops had been suspected, during the fall of previous regimes, to be a potentially counter-revolutionary force. As a consequence, the authorities object to using the army garrisoned in Lyon to police the streets, and if it needs to be used it is specified that it should intervene 'only together with the National guard'.⁴⁰

Line infantry and National Guard are in fact quite close in their organization and in the missions they carry out, which suggests that the citizen militia is first and foremost in line with a military conception of law enforcement. Throughout the studied period, the army remains the model of reference that must guide the functioning of the Guard. In November 1830, the mayor of Lyon thus evokes particularly explicitly 'the necessity of a prompt organization of the service of the national guard insofar as it is destined to replace the line troop in the guarding of the city and the maintaining of public

³⁶ Guignol illustré, n° 36, 15 avril 1871.

³⁷ Le Censeur, n° 413526, March 1848.

³⁸ Archives nationales (Paris, France) (thereafter AN), F/9/644-645/b, dossier 1: Seconde Restauration, Letter from the War secretary to the minister of the Interior, 2 June 1828.

³⁹ AN, F/9/399, folder 'Circulaire ministérielle du 2 septembre 1830', Report by the Rhône prefect to the minister of the Interior, 13 September 1830.

⁴⁰ AML, 3 WP125, file 'Troubles de novembre 1831', Letter of general Roguet, general lieutenant of the Lyon garrison, to the mayor of Lyon on 4 November 1830.

order and safety'.⁴¹ This statement is used again almost word for word 40 years later by the chief of a National Guard battalion: 'It is not possible to ask the national guards the same service that we used to ask from our troops, and yet the national guard can provide as many faithful results as the army. I am talking of course about the internal service within cities.'⁴² Even though it had not been theorized,⁴³ the National Guard adopts the same techniques as the ones used by the line army throughout the 19th century to ensure public tranquility. Empiricism and imitation thus prevail for the militia's service. It is divided between the postal service and the organization of patrols. This functioning has the purpose of occupying the urban space and being seen by as great a number of fellow citizens as possible, in order to dissuade potential troublemakers by a daily presence in the streets. The guard posts are therefore often situated at the foot of or near surroundings of important buildings, such as the Hôtel de Ville, the arsenal, the prisons, theatres, arrondissement city halls, or the Banque de France branch. This location also allows the guards to be swiftly present where order is compromised by the beginning of some brawl or larceny.

⁴¹ AML, 1219 WP 017, Decree of the mayor of Lyon, on 4 November 1830, inserted in the order of the day of the Lyon National Guard, on 10 November 1830.

⁴² 'Il n'est pas possible de demander aux gardes nationaux le même service que l'on demandait à nos troupes et cependant la garde nationale peut donner tout autant de résultats fidèles que l'armée. Je parle bien entendu du service intérieur des villes.' (AML, 1219 WP 010, file 12th Battalion correspondence, 1870-1871, Letter of 16 May 1871, to Bourras, commander of the Lyon National Guard).

⁴³ No theory of law enforcement is developed during the first three quarters of the 19th century, except for the one proposed by Maréchal Bugeaud, *La guerre des rues*.

Map 1: Locations of the posts of the National Guard in 1830⁴⁴

For each reorganization, the number of guard posts increases, in correlation to the demographic and urban growth of the city (the suburban towns of Vaise, Guillotière and Croix-Rousse are attached to the Lyon municipality in 1852). When there are only 22 posts occupied by the National Guard in 1830 (cf. map above), there is (though it may be an exaggeration) ‘one in each street’ at the beginning of March 1848,⁴⁵ then 104 in September 1870.⁴⁶ After a while, the number of posts occupied by the militia decreases systematically, because of the diminution of the role and influence of the National Guard in the months following the reorganizations. As such, there are only 20 posts occupied by the militia in June 1871, the others having been either removed or re-occupied by the garrison only.⁴⁷

The organization of day and night patrols at regular intervals complete the measures taken to insure the safety of the streets of Lyon. Moreover, the instructions given then to

⁴⁴ Amos Frappa gives the location of posts in his article: Amos Frappa, ‘La surveillance nocturne à Lyon durant le premier XIXe siècle’, to be published soon.

⁴⁵ *Le Censeur*, n° 412011, March 1848. Bergier, *Le journal d’un bourgeois*, p. 34.

⁴⁶ AML, 1223 WP 06, Tableau des postes occupés par la Garde nationale de Lyon.

⁴⁷ *Ibid.*

the national guards confirm the influence of the military model on the functioning of the militia, as shown by this order dated June 1848: 'The patrols shall not go further than the limit of the indicated itinerary. They shall always walk in good order, observe perfect silence, carefully ensure public tranquility and make themselves known to every post belonging to their assigned circumscriptions'.⁴⁸

The national guards have also sometimes been needed to undertake an extraordinary service in order to re-establish order in exceptional situations, when it was threatened by the beginning of riots or even insurrections. In such occasions, the drums of the militia beat the call to arms in all of the city's neighborhoods, and the national guards had to gather in arms and uniform on their respective parade grounds. They were then tasked with re-establishing order along with the garrison troops, and with fighting against the rioters if that proved necessary. This is what happened during the Canut riot on 22 and 23 November 1831, during which 11 national guards still loyal to the authorities were killed, and at least 16 injured.

III. A POPULAR, BUT BRIEF AND TEMPORARY EXPERIMENT

If the National Guard did indeed participate in law enforcement, sometimes being the main police force on which the authorities chose to rely, its existence was however temporary and relatively short every time.

1. From the initial popular enthusiasm to an ever less assiduous participation

The successive reorganizations of the National guard initially triggered a real enthusiasm and a deep passion in the population, be it in 1830, in 1848 or in 1870. During each reorganization, the headcounts of the National Guard, which were non-existent before the revolutions⁴⁹, reached several thousands in a few days. A few weeks after the reconstitution of the militia, the inspections organized on 29 August 1830 and on 12 March 1848, gathered around 20,000 and 25,000 guards respectively, a third of which were not armed yet.⁵⁰ Each time, the Lyon citizens massively joined the ranks of the militia, because in the 19th century this popular participation to law enforcement assumes a double dimension

⁴⁸ 'Les patrouilles ne devront point s'écarter de la limite de l'itinéraire indiqué. Elles devront toujours marcher en bon ordre, observer un parfait silence, veiller avec soin à la tranquillité publique et se faire reconnaître par tous les postes compris dans les circonscriptions qui leurs sont assignées' (AML, 1219 WP 018, Order of the day, 20 June 1848).

⁴⁹ The National Guard is put in abeyance in Lyon during the 1820s and just before the Three Glorious Days, it has not been summoned for several years. In 1828, the prefect of the Rhône writes: 'As for the National Guard of Lyon, it is well known that it has been entirely dissolved, in fact if not by law' (AN, F/9/644-645/b, dossier 1: Seconde Restauration, Letter from the War secretary to the minister of the Interior, 2 June 1828). Dissolved in December 1831 after the insurrection of November 1831, the militia is reorganized a year later, but it only real exists on paper and is almost never called during the July Monarchy. The authorities refuse to re-arm the militia, and the national guards content themselves with parading in uniform during official celebrations. Finally, the Lyon National Guard is dissolved again in July 1848 because of the troubles that happened in the spring.

⁵⁰ Le Précurseur, n°1137, 30 August 1830. Le Censeur, n°4124, 15 March 1848

: on the one hand, it is about, as we have already shown, showing one's adhesion to the new regime ; but also, and maybe more importantly for the contemporaries, about experiencing citizenship, which is in this case an armed citizenship. Throughout the French revolution and the 19th century, the right to bear arms was a criteria of emancipation and citizenship that was as important as – if not more important than – the right to vote. Dominique Godineau notably highlighted the fact that during the Revolution, women have demanded the right to bear arms and organize themselves in a national guard as much as, or even more than, the right to vote.⁵¹ It is thus not surprising that the commander of the Croix-Rousse (one of the suburban communes of Lyons) National guard declared in April 1848 that the citizen militia 'is, like the elementary school, the special school of civilian life'.⁵² Besides, the National guard remains an essential place to get politicized and learn democracy, as Mathilde Larrère showed for the Parisian guard under the July Monarchy.⁵³ Before 1848, many national guards, being unable to pay a sufficient cens amount, did not have the right to vote at a national level, but were nevertheless able to vote within their companies to elect their officers. Likewise, just after the proclamation of the Second Republic, the majority of Lyon's national guards voted for the first time in their lives, not for the April 1848 legislative elections but for the elections of the officers and sub-officers of their companies that were organized the previous month. To some, the National Guard would therefore be 'the basis for republican institutions',⁵⁴ which explains the enthusiasm surrounding the militia, particularly in 1848 and in September 1870.

However, after a few months or sometimes even a few weeks, once the revolutionary fever has subsided, the participation of national guards to law enforcement becomes less and less assiduous, when it does not become downright non-existent. The sources from 1830-1831, 1848 and 1870-71 insist abundantly on the lack of discipline and absenteeism of national guards. During the spring of 1848, between 21 March and 26 April 696 guards appear before disciplinary hearings for having missed their shifts.⁵⁵ In July 1871, less than a year after the reconstitution of the militia, a captain of the 6th battalion gives the following bitter observation, which could be applied to the whole period: 'For a long time, I have been, like many others, saddened to see the national guard left to its own devices, meaning that everyone does as he pleases without anyone, or at least very with very few, trying to establish the discipline that was the sole basis of its strength'.⁵⁶

The absence of the guards is all the more glaring when public order is directly threatened by new riots or insurrectional troubles. As such, out of six thousand national guards, only a few hundreds answered the calls of 21 and 22 November 1831, and fought the in-

⁵¹ Godineau, 'De la guerrière à la citoyenne'.

⁵² *Le Censeur*, n° 4158, Address from Lortet to the Croix-Rousse National Guard, 18 April 1848.

⁵³ Larrère, *L'urne et le fusil*.

⁵⁴ *Le Censeur*, n° 4158, Address from Lortet to the Croix-Rousse National Guard, 18 April 1848.

⁵⁵ AML, 1222 WP 05, file 'Conseil de discipline', 1848.

⁵⁶ AML, 1219 WP 010, file 'Correspondance 6e bataillon 1870-1871', Letter to General Bourras, commander of the National Guard, 24 July 1871.

surrection that was subsequently called the Canuts revolt. The very weak mobilization of National guards, part of whom had joined the side of the rioters, triggered twenty years later the following statement by Jean-Baptiste Monfalcon, a contemporary and author of a History of insurrections in Lyons, in 1831 and 1834:⁵⁷ '[The National Guard] would have certainly succeeded in warding off the storm ; unfortunately, this was not about parading at a review but shooting and being shot at. Very few citizens answered the pressing call of the drums. Many distraught merchants and landlords fled to the countryside; terror and panic were spreading to almost everyone.'⁵⁸ This quote highlights the problematic character of the National Guard, and more broadly of popular participation to law enforcement. The citizen militia is a popular, non-professional force, it is poorly trained, undisciplined, and often armed with old, damaged rifles. It is admittedly able to replace the garrison to patrol at night in the streets of Lyon, but it appears completely incapable of repressing troubles of a bigger scope.

2. From law enforcement force to instrument of disorder: an inefficient and dangerous troop

For these reasons, it seems that for the authorities, the National Guard represents a potential force of disorder rather than a law enforcement force on which they can assuredly count. The citizen militia is useful to patrol the streets and scatter a few groups of gawkers during the day, but it is unable to be an efficient police force when serious troubles threaten the public order. So in the spring of 1848, the Lyon National Guard proved unable to protect the interim Public prosecutor when he was physically threatened by the crowd. On 18 May, the prosecutor was sequestered by a group of workers and forcibly led to Croix-Rousse, where he was imprisoned for a night in a locale. On the way, while crossing the Pierre bridge, the prosecutor and the group of workers did cross paths with a unit comprised of between one hundred and one hundred and fifty national guards who refused to intervene, considering that they did not have the order to do so.⁵⁹ A year after this, the statement made by Constant Galerne, the commissioner general of Lyon, in a report addressed to the president of the Republic Louis-Napoléon Bonaparte about the events of 1848 in Lyons, was final:

As a consequence, the National guard of Lyons, specifically that on which the country needed to count the most, has compromised its responsibility and has rendered itself liable of a just mistrust and severe measures that necessitate the law enforcement it was unable to uphold. In any case, the national guard of Lyons has really only served to be more detrimental than useful to

⁵⁷ Monfalcon, Histoire des insurrections de Lyon.

⁵⁸ '[la garde nationale] aurait réussi bien certainement à conjurer la tempête ; malheureusement il s'agissait non de parader à une revue mais de tirer et de recevoir des coups de fusils. Très peu de citoyens répondirent au pressant appel des tambours. Beaucoup de négociants et de propriétaires éperdus s'enfuirent dans les campagnes, il y avait une terreur panique, presque générale' (Monfalcon, Souvenirs d'un bibliothécaire, pp. 112-113).

⁵⁹ Le Censeur, n° 4191, 23 May 1848.

*the moral order, and shall never be able to really help a Republic ridden of the old rags of its predecessor!*⁶⁰

Not only was the National Guard passive, it was also sometimes even responsible itself for disorder and for starting insurrectional troubles. Indeed, on 21, 22 and 23 November 1831, during the troubles that later came to be known as the revolt of the Canuts, the citizen militia did provide the insurgents with many weapons, and even with a good part of its revolutionary personnel. According to Bouvier du Molart, the prefect of the Rhône at the time of the troubles, the National Guard was only able to gather six hundred men, and the battalions from the neighborhoods of Saint-Georges and Saint-Jean, located on the right bank of the Seine and comprised mostly of factory workers and little artisans, joined the ranks of the insurgents, along with the battalions of the Guillotière and of Croix-Rousse.⁶¹ One of the leaders of the insurrection was in fact a named Buisson, captain of the National guard of Caluire, a town neighboring Croix-Rousse.

Accused – often with reason – of sedition, the National guard was systematically dissolved in Lyon after a few months or years of existence. It was the case in December 1831, because of the role it had played during the November insurrection ; and again after its 1832 reconstitution, when it was dissolved in the spring of 1834 after the second Canuts riot (9-15 April 1834). Reorganized again in February 1848, the Lyon militia was dissolved in 1848, and finally the Guillotière battalions were dissolved in May 1871, just after the insurrection of 30 April.

As a matter of fact, the authorities were well aware of the danger that the militia could represent, and they did everything in their power in order not to use the national guard once the revolutionary fever had subsided. In December 1832, at a time when the militia, which had been dissolved in November 1831, theoretically was supposed to be reconstituted after a year, the Minister of the Interior shared his doubts about the usefulness of its reorganization with the prefect of the Rhône. He considered that the authorities of Lyon ‘had no need, during the Christmas period, of this unit of public force and surveillance whose deployment had seemed indispensable the previous year’.⁶² Above all, he acknowledged in the rest of his letter that the reorganized militia would be ‘an embarrassment much more than a resource’.⁶³ A few months later, while the prefect had been forced to pronounce the reconstitution of the militia, the Minister ordered him, in a confidential

⁶⁰ ‘En conséquence, la garde nationale de Lyon particulièrement celle sur laquelle la patrie avait le plus à compter, a compromis sa responsabilité et s’est rendue passible d’une juste défiance et des mesures sévères qui nécessitent le maintien de l’ordre qu’elle ne sut pas faire respecter [...]. En tout état de cause, la garde nationale de Lyon n’a servi en réalité reconnue, qu’à être plus nuisible qu’utile sans l’ordre moral, et ne saurait jamais rendre de véritables services à une République dégagée des vieux lambeaux de sa devancière!’ (AML, 124II001, folder 3, Report over the events of 1848 by the central commissioner of Lyon, pp. 190-191).

⁶¹ Bouvier du Molart, Relation de M. Bouvier du Molart, pp. 34-35.

⁶² AML, 4 II 3, Correspondance d’Adrien de Gasparin, préfet du Rhône, avec le ministre de l’Intérieur de juin 1832 à décembre 1832, Letter of the minister of the Interior to the prefect of the Rhone, 31 December 1832.

⁶³ Ibid.

note, not to arm the guard, estimating that 'the administration will always, in such a positive legal disposition, the necessary strength to deny any demand of arming, whatever the form they might take'.⁶⁴ The authorities' apprehension was similar during the summer of 1849, but that time it was the prefect of the Rhône who advised the Minister of the Interior against reorganizing the militia a year after its dissolution. The civil servant was quite straightforward when he wrote that 'instead of recalling in any way the existence of the Lyon National Guard, it is on the contrary necessary to distance ourselves from the idea as much and for as long as possible'.⁶⁵

IV. CONCLUSION

To conclude, the National Guard did constitute a rather original popular law enforcement force. During each revolutionary episode, the liberal bourgeoisie reconstituted it spontaneously in order to back the new regime and to protect itself from popular violence. Faced with the fact, the authorities of Lyon had no other choice but to proclaim the official reorganization of the militia, a few days after its spontaneous formation. However, during the first days of the revolutions, the National guard proved particularly useful to make up for the absence and lack of organization of the traditional police forces, and to maintain order in the streets of Lyon. To some extent, the reorganization of the citizen militia also provided a frame for the arming of the people triggered by the revolutionary process. Therefore, the authorities preferred this arming to take place within the context of the National guard, which was, in theory, a more easily controllable institution than the other armed groups on which the authorities had no power (such as the *Voraces* in Lyon in 1848), and also a force comprised in part of bourgeois members attached to order.

A troop whose organization was deeply influenced by the military model, the militia was nevertheless never a fully efficient law enforcement force, and was, on the contrary, the instrument of important disorder. A composite force, often poorly led and insufficiently armed, assembling individuals of widely different social backgrounds and political opinions, this popular force quickly became a source of embarrassment for the authorities of Lyon, who did their best to hurry its dissolution once the revolutionary fever had subsided.

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⁶⁴ AML, 4 II 5, Letter of the minister of the Interior to the prefect of the Rhône, 18 February 1834.

⁶⁵ '[...] au lieu de rappeler d'une manière quelconque l'existence de la Garde nationale de Lyon, il faut au contraire en éloigner l'idée autant et aussi longtemps que faire se pourra' (AN, F/644-645/b, file 6: *Seconde République*, Letter of the minister of the Interior to the prefect of the Rhône, August 1849).

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Armed citizens and defence of public order: the National Guard of Rennes during the July Monarchy in France

Axel Dröber

During the outbreak of the French Revolution in 1789, France was swept by a popular movement that saw citizens of almost every town or village take up arms and gathered to protect the public order, threatened by massive uprisings, revolts and violence.¹ In Paris, the local administration rapidly recognised the newly created units, which became known as the National Guard, and appointed the famous General Lafayette commander-in-chief. For both the local administration as well as the revolutionary government, the armed citizens were an essential force for public order, since the army remained under the direct command of the King. In 1791, the National Assembly voted to include the National Guard in the constitution and adopted a law on its organisation.² The parliament's deputies maintained certain rules and customs, which had become an important part of the National Guard since 1789. These included the election of the officers by the soldiers and universal service: every man in the town or village was called to serve.

The new law applied only to residents paying direct taxes. The legislation of the first constitutional monarchy therefore restricted access to the armed forces significantly, excluding an important part of the local bourgeoisie and entrusting only those persons who, in the eyes of the parliament, had a special interest in the protection of order and private property.³ Nevertheless, the creation of the National Guard in Europe was revolutionary for its time. The state called upon its citizens to guarantee the public monopoly on the legitimate use of force.⁴ For this reason, the French National Guard presents an original and also contradictory case of popular policing. The principle of the citizen's service remained in place even during the Restoration and the return of the Bourbons in 1814. King Louis XVIII reorganised the National Guard, since he did not trust the army. He needed an armed force to protect his own regime and to assure the continuity of his reign.⁵ He followed up on the security politics of the Revolution and called only direct tax payers to maintain public order.

¹ Dupuy, *La Garde nationale*, p. 41.

² *Ibid.*, p. 142.

³ Carrot, *La Garde Nationale*, p. 119.

⁴ Larrère, *L'urne et le fusil*, p. 5.

⁵ Girard, *La garde nationale*, p. 21.

The following study focuses on this period of post-revolutionary monarchy.⁶ It analyses the history of the National Guard of Rennes following the Restoration era as well as during the July Monarchy.⁷ It reconsiders the role of the armed bourgeoisie within the revolution of 1830, the so-called *Trois Glorieuses*, and the first years of King Louis-Philippe's reign. On the one hand, the Orleanist regime pushed the idea of popular participation in public order service and used the National Guard as its primary security force, seeking to demonstrate its commitment to the French Revolution. In 1831, the government passed a new law on the organisation of the National Guard, the first one since 1791. On the other hand, Rennes looked back on an eventful history since January 1789 when the first conflicts between royalists and Jacobins broke out in the city.⁸ The need for a public force was most urgently felt by the local population. The first guard included every male resident, before the application of the law of 1791 resulted in a significant restriction of its troops. Only the *citoyens actifs* continued to serve public order, excluding all male residents who did not pay direct taxes. During the *Trois Glorieuses* of 1830, the inhabitants proved their commitment to the new regime and went deliberately against the old administration. Contemporaries observed how the armed citizens sought to restore customs and traditions dating from the French Revolution. They took control of the public space by arguing that the Guard, since 1789, was in charge of public order.

The term 'popular' is used analytically in order to describe the influence and relevance of the revolutionary tradition as well as the identity of the armed bourgeoisie. It serves to examine the rapid resurrection of Rennes' National Guard during the outbreak of the *Trois Glorieuses* and its service during the first months. In the first instance, popular characterises views and visions of how the guardsmen understood their roles as a part of their community and how they defined the armed bourgeoisie as an organisation called to protect public security and private property. At the same time, public declarations made by the King directly after his accession to the throne can also be defined as popular: Louis-Philippe underlined the loyalty of the guardsmen and described their service as a sign of the wide support his reign enjoyed amongst the French population. Finally, the government and the local administration reflected on how the participation of the local population could improve the armed forces— as long as those citizens were part of the bourgeoisie and enjoyed a solid reputation in the town. Here, of course, 'popular' meant quite the opposite of its original meaning, leading the political actors to limit the access to the ranks of the National Guard.

The study comprises three points. The first examines the reorganisation of the local bourgeoisie, questions the legitimacy that the armed citizens thought to hold and retraces the first months of military service in Rennes. The second section considers at the national level the institutionalisation of the National Guard by the government under Prime Minister Jacques Laffitte and later Casimir Perier as well as the instrumentalization of

⁶ The term is borrowed from Goujon, *Monarchies postrévolutionnaires*, see in particular p 13.

⁷ For an outlook on the National Guard during the Restoration, see: Dröber, 'Verweigerung und Autonomie'.

⁸ Dupuy, *La Garde Nationale et les débuts de la révolution*, p. 50.

the armed bourgeoisie within royalist propaganda. The third and last point is about how the 1831-law was adopted at the local level. This part looks at guardsmen seeking to influence the organisation of the armed forces, to change certain terms of national legislation as well as to re-establish essential provisions of the French Revolution and the law of 1791.

I. THE LEGITIMACY OF TAKING UP ARMS: THE REORGANISATION OF THE RENNES NATIONAL GUARD AT THE BEGINNING OF THE JULY MONARCHY

When in July 1830, a massive uprising took place in Paris against the policies of the regime of Charles X and the first riots broke out,⁹ the inhabitants of Rennes were worried about public order and took the initiative to reform the National Guard. A report by the Provisional Commander of the National Guard refers to a delegation of bourgeois infantry who went to the Prefect's house to ask for the reorganization of the National Guard.¹⁰ The magistrate refused the request and ordered them to return home. However, the delegation did not accept this setback: on the same day, armed citizens in uniform met at the Champ de Mars to find their former units and proceed with the election of their officers. In the following days, the newly formed troops improvised a parade on the square in front of the prefecture and the courthouse, after having prepared the ground: on the pediment of the two buildings, the national guards removed the white flag, symbol of the reign of Charles X, and replaced it with the tricolour flag, a direct reference to the revolutionary origins of their institution. At the end of the parade, they went to the military garrison and forced the commander to deliver 400 guns, showing their determination to ensure public order themselves.

The reorganisation of Rennes' National Guard was therefore carried out spontaneously, a phenomenon that can also be observed in other cities in the country, such as Lyon.¹¹ However, the case of Paris is different since only a few inhabitants took up arms during the *Trois Glorieuses* and the first companies came together only when the provisional government officially convened them.¹² In the Rennes' Commander's report, the bourgeois appear to be the actors of the revolution and regime change since they took up arms autonomously and found their former troops who had not gathered since the mid-1820s. They took control of the city's public space, organized a military parade and imposed the insignia of the new power. In addition, the national guards requisitioned weapons at the garrison depot and obtained supplies at the expense of the regular army, the purpose of this operation being to impose the citizens as the only armed force and to prevent the army from mobilizing. The latter, often deployed by Charles X's power for the

⁹ Pinkney, *The French Revolution*, p. 109.

¹⁰ Archives départementales (thereafter AD) Illes-et-Vilaine, 4 R 88, report of the provisional commander of the National Guard, Laguistière, addressed to the inspector of Ille-et-Vilaine, 15 September 1830.

¹¹ Trollet, *Lettres historiques*, p. 25.

¹² Larrère, *L'urne et de la fusil*, p. 40.

repression of demonstrations, had acquired a reputation for brutality and complete submission to the monarchical regime.¹³

The Commander's report is of course to be placed in the historical context. Rendered in September 1830, when Louis-Philippe came to power, the reading of the events in Rennes is in line with the official version of the revolution. The King had indeed affirmed the previous month that the armed bourgeoisie had played a decisive role during the *Trois Glorieuses* and ensured the victory of the insurgents.¹⁴ At the same time, the meeting of the National Guard on the Champ de Mars in Rennes is well confirmed by other administrative sources and by the local press,¹⁵ but these sources do not establish the identity of the members of the delegation who came to address the prefect. Perhaps they were former officers who had ceased their activity during the reign of Charles X. Their initiative shows that with the fall of the king in 1830, the reorganisation of the National Guard became a matter of course for its members.

From an analytical point of view, the question arises as to what legitimacy the bourgeoisie thought it had in order to take up arms, despite the prefect's refusal. The Commander's report is enlightening on this point, emphasizing the replacement of the flag. The tricolour was abolished at the time of the Restoration in 1814 and replaced by the royalist white flag.¹⁶ By floating it above their parade, the bourgeois of Rennes did not only support the change of regime, since the new one had just restored the tricolour flag, but they recalled the tradition of the National Guard, created in 1789 to maintain order in the commune. During the French Revolution, the Parisian Military Committee, under the command of Lafayette, ordered the guardsmen to wear the tricoloured cockade as the symbol of the revolutionary nation.¹⁷ Only armed citizens enlisted in one of the local companies were permitted to adopt the new emblem, thereby being identified as agents of the city's police forces. Unlike the uniform, which was not compulsory in the 19th century, the guardsmen were obliged to wear the tricolour. Failure to do so carried a heavy punishment.

The tricolour was hence the symbol of membership to the National Guard. It permitted members to carry weapons and obliged them to maintain public order. It was an essential feature of the identity of the armed citizen and the role that he played within his home town or village. During the Revolution, guardsmen throughout France followed the example of the capital, adding the new cockade to their dress and taking up arms to defend the revolution's achievements.¹⁸ This was also the case in Rennes where members of the 'milice nationale' wore the tricoloured cockade even before news of the formation of the Parisian National Guard under Lafayette reached the town.¹⁹ At the time of the

¹³ Carrot, *Le maintien de l'ordre*, vol. 1, p. 397.

¹⁴ *Journal des Débats*, 23. December 1830.

¹⁵ *L'Auxiliaire Breton*, 1 August 1830.

¹⁶ Scholz, *Die imaginierte Restauration*, p. 60. Girard, *La garde nationale*, p. 23.

¹⁷ Liris, 'Iconographie et épigraphie', p. 283.

¹⁸ Dupuy, *La Garde nationale*, p. 66.

¹⁹ *Ibid.*, p. 76.

fall of Charles X in 1830, the resurrection of the tricolour embodied the citizens of Rennes expectations of regime change: they sought to re-establish the National Guard and to preserve their right to participate in public policing in service of the city.

In this context, the inhabitants of Rennes also re-appropriated revolutionary feasts and rites. A police report of July 1831, a year after the *Trois Glorieuses*, notes that a group of 'jeunes gens' of the National Guard planted a tree of liberty in the city's main square to celebrate the anniversary of the capture of the Bastille in 1789.²⁰ To the sound of a marching band, they praised the King, General Lafayette and proclaimed their liberty. The term 'young people' designated a certain social group among the wealthy bourgeoisie in Rennes that had played an important role in public life since the French Revolution. In 1789, young men, including students of the local law faculty, had created armed units to combat the aristocracy and representatives of the Old Regime.²¹

The police officer reporting the demonstration in the square of arms used the same term to identify the group of persons celebrating the 14th July. In his eyes, the demonstration was a sign of the lack of discipline of the armed citizens of the National Guard, who had gathered in uniform but whose feast had by no means been ordered by the authorities. The fact that the police were concerned about public security in light of the National Guard's poor discipline must also be seen in connection with the unrest that still shook the country one year after the July Revolution. In Rennes, too, there were repeated riots among workers and craftsmen, protesting their poor living conditions and growing poverty.²² The republican opposition encouraged protest against the government of the conservative Casimir Perier, calling for political and social reforms.²³

It is questionable, however, whether the term 'young people' was not simply a foreign description, or whether the national guards in question actually sought to continue the revolution. There is no doubt that the young guardsmen remembered the Federation Day of 14 July 1790, when 15,000 national guards from the whole of France gathered in Paris, drawing some 300,000 spectators.²⁴ The armed citizens swore allegiance to the King and the constitution, and pledged obedience to the laws of their country. The intention of General Lafayette, who initiated the Parisian gathering, was to celebrate the unity of the nation and to demonstrate the strength and the discipline of the French National Guard.²⁵ It was therefore a ceremony to legitimize the monarchy and the new state, not a demonstration against the King or a call for political reform.

As a matter of fact, the Federation Day rapidly became part of the myth of the armed bourgeoisie, symbolising the emancipation of the third estate, the foundation of the National Guard as a driving force of the Revolution and the achievement of political liber-

²⁰ AD Ille-et-Vilaine, 4 M 33, report of the Central Commissioner, 14-15 July 1831.

²¹ Dupuy, *La Garde Nationale et les débuts de la révolution*, p. 64.

²² AD Ille-et-Vilaine, 1 M 23, letter from Mayor Lorgeril to Prefect Leroy, 12 December 1831.

²³ *Le National*, 18 June 1831. *La Tribune*, 6 May/12 May 1831.

²⁴ Carrot, *La Garde Nationale*, p. 86.

²⁵ *Ibid.*

ty.²⁶ The example from Rennes in 1831 shows the transmission of the legacy of the French Revolution to the next generation. These 'young people' did not experience the fall of the Old Regime forty years before and only took up arms in 1830. At the time of the July Monarchy, they turned out to be devoted supporters of Louis-Philippe, a veteran of the Great Revolution and of the battle of Valmy in 1792. This demonstrated publicly his commitment to the legacy of 1789.²⁷ The national guards in Rennes fiercely protected the new regime against its reactionary enemies, who were most often loyal to the old King. Their main target was the local clergy. The Bishop of Rennes was a regular guest at the Jesuit seminary in Vitré, a town near Rennes, where he made harsh critics against the July Monarchy and the constitutional regime.²⁸ Some armed citizens, having heard of these speeches, tried to disrupt the religious ceremonies organized by the bishop in Rennes.

For the Corpus Christi procession of June 1831, gendarmerie officers supervised the ceremony so that the faithful could march through the streets of Rennes.²⁹ Their report records the presence of young people, recognizable as members of the National Guard from their uniforms, in a café on the route of the procession. As the procession passed the café, the group noisily began the Marseillaise, seeking to drown out the religious songs. The gendarmerie did not intervene, noting that the Marseillaise was no longer defended, as it had been the case during the reign of Charles X, and that the young people were cheering for the King at the same time. This incident was not escalated and the members of the National Guard in the café were not arrested. The following year, the entire National Guard refused to participate in the Corpus Christi, following the young bourgeoisie in their aversion to the clergy.³⁰ They consented to contribute to the maintenance of public order but declined to take part in the religious ceremony itself as it had been previously the custom of the local bourgeoisie.

By demonstrating a virulent anticlericalism, the armed citizens showed that, from their point of view, the service of the local population was linked to a mission that went beyond the maintenance of public order. At the time of the young men's protest, there was still a threat emanating from the members of the elder branch of the Bourbons, who had been overthrown in 1830, and their supporters. In May 1832, the region of upper Brittany around the city of Nantes was the theatre of a royalist upheaval, conducted by the duchesse de Berry, who had entered France some months earlier in order to overthrow Louis-Philippe.³¹ The Chouan troops then fought in some minor battles against the regular army and quickly lost ground. The great revolt that the Duchesse and her brother in arms had hoped for did not take place. Nevertheless, the event galvanised the national guards' determination to counter the influence of the clergy. In this case, popu-

²⁶ Many of the Parisian companies during the Revolution adopted the Phrygian bonnet as new symbol, representing the liberty, see: Liris, 'Iconographie et épigraphie', p. 287.

²⁷ Franconie, 'Louis-Philippe', p. 105.

²⁸ AD Ille-et-Vilaine, 1 M 120, letter from Military Governor Bigarrés to Prefect Leroy, 12 December 1830.

²⁹ AD Ille-et-Vilaine, 4 M 89, report of the departmental gendarmerie, 5 – 6 June 1831.

³⁰ AD Ille-et-Vilaine, 1 M 120, letter from Military Governor Bigarrés to Prefect Leroy, 8 June 1830.

³¹ Pinkney, *The French Revolution*, p. 311.

lar policing meant defending the revolutionary institutions that were considered to guarantee political liberty.

Indeed, many citizens were ready to take up arms and to participate in combat against the royalist insurgents. At the Military Governor's request, a troupe of 200 volunteers was mobilized by the major.³² General Bigarrés wanted to lead the train himself. He ordered the troops to report the prefecture square at four in the morning and asked the guards to provide two day's bread and ammunition. The Governor praised the guardsmen for their honourable and brave service the following month.³³

II. APPROPRIATING THE MONOPOLY OF VIOLENCE: THE LAW OF THE NATIONAL GUARD OF 1831 AND ITS APPLICATION IN RENNES

In August 1830, Louis-Philippe held a parade on the Mars field in Paris.³⁴ On this occasion, all of the thirteen legions of Paris marched to pay tribute to the new King. The National Guard's support for the new monarchy seemed certain and Louis-Philippe was able to present himself as a sovereign close to the people.³⁵ The references to the 1789 Revolution were unmistakable. The presence of Lafayette, who handed out the new flags of the National Guard in the tribune in front of the military school, recalled the Federation Day of 1790, which had also taken place on the Mars field under the command of the General. Contemporary observers referred to the parade as a moment of unity between the bourgeoisie and the sovereign, describing the scene as the coronation of the King and the final act of his accession to the throne.³⁶ The August parade was the first chapter in a long and complicated history of instrumentalisation, resulting in a change of monarchical legitimacy which was no longer based upon divine grace, but popular sovereignty.³⁷

Meanwhile, the government undertook the large task of reorganising the Nation's armed forces. One year after the *Trois Glorieuses* and the spontaneous reorganization of the National Guard, government passed a law to regulate the armament of the bourgeoisie and making it a reliable institution.³⁸ The text stipulated that all Frenchmen aged between 20 and 60 were to be part of the National Guard. It also provided for active service and a reserve force. The recruitment councils in the cities across the kingdom were responsible for distributing recruits on both lists. The law also restored the election of officers by the troupe. However, the election did not concern the senior posts of the battalion such as commander or legion colonel, which remained appointed by the King. The

³² AD Ille-et-Vilaine, 1 M 112, letter from Bigarrés to Prefect Leroy, 29 May 1832.

³³ Ibid., 8 June 1832.

³⁴ Larrère, 'Ainsi paradait le roi', p. 11.

³⁵ Larrère, *L'urne et le fusil*, p. 54.

³⁶ So the journalist Cuvillier-Fleury. Alfred-Auguste Cuvillier-Fleury, *Journal intime de Cuvillier-Fleury*, vol. 1: *La famille d'Orléans au Palais-Royal, 1828-1831* (Paris, 1900-1903), p. 272.

³⁷ Franconie, 'Louis-Philippe', p. 97.

³⁸ Girard, *La garde nationale*, p. 196.

text contained many provisions concerning discipline, anticipating different cases of disobedience.

The law allowed for greater control of the institution, starting with the composition of the active troops, the appointment of high-ranking officers and the stipulation of a whole series of punishments in the event of insubordination. The aim was to recruit only the wealthy part of the population, which was deemed safe and invested in a quick return to order. This law must be placed in the tense context of the early years of the monarchy when riots and revolts, such as the Canuts revolt in Lyon in November of the same year, regularly shook the country.³⁹ By reorganising the National Guard, the regime was seeking to increase its means of defence and to establish a monopoly on violence.

Thus, in Rennes, the recruitment council, chaired by the Mayor of the city, called about 1000 men for active service, representing 25% of all recruits. Compare this to an average of 18% for the country and 20% for Paris in 1831.⁴⁰ It is worth noting the continuity in relation to the Restoration, during which the same number of men were called upon to provide regular service.⁴¹ It is the case, therefore, that only a small proportion of recruits actually did their military service despite the obligation of all citizens to serve in the National Guard as provided for by the new law. The criterion for active duty was the uniform, which was very expensive and had to be paid for by the citizens themselves.⁴² From the perspective of local administration and the general staff, it was a useful instrument for maintaining a certain social exclusivity: the National Guard, far from being a truly popular militia, then represented a bourgeois elite and excluded an important part of the population.

Yet, the government and local administration maintained the public narrative of a popular armed force. In their view, this legitimized the Perier government's policy of public order and often harsh action against the opposition. Moreover, the authorities considered the National Guard's performance to be excellent. For this reason, the military authorities called upon its service at critical times to ensure public safety. In January 1831, Governor Bigarrés sent a letter to the Prefect informing him of the desertion of several soldiers from the garrison in Vitré.⁴³ The Sub-Prefect in charge had already sent a Gendarmerie brigade and a line detachment to look for the deserters. The Governor approved this measure because he feared the beginning of a rebellion caused by the harmful influence of the Jesuit seminary that might affecting the inhabitants of Vitré. For him, the agitation led by the Rennes bishop against the July regime had borne fruit, pushing recruits to insubordination and reviving ideological conflicts in the city.

³⁹ Moissonnier, *Les Canuts*, p. 52. See also for an contemporary interpretation of the events: *Journal des débats*, 8 December 1831.

⁴⁰ AD Ille-et-Vilaine, 4 R 118, number or summary of National Guard census lists, 7 September 1831. Larrière, *L'urne et le fusil*, p. 130.

⁴¹ AD Ille-et-Vilaine, 4 R 87, letter from Mayor Grenédan to General Secretary Kentzinger, 29 March 1816.

⁴² Archives municipales de Rennes (thereafter AmR), H 21, National Guard of Rennes, control over the officers, 1 September 1821.

⁴³ AD Ille-et-Vilaine, 1 M 120, letter from Bigarrés, 10 January 1831.

He therefore wanted to convene the National Guard. He informed the prefect of the Ministry of War's instructions not to put line troops in contact with the civilian population without the presence of the armed bourgeoisie.⁴⁴ The company of national guards not only increased the number of troops but gave legitimacy to repression. The armed citizens represented the nation and the Guard made it possible to show the loyalty of the bourgeoisie towards the regime. This allowed the government of Louis-Philippe to distinguish itself from the regime of Charles X, who at the end of his reign had used the regular army and royal troops excessively to repress demonstrations. By contrast, the National Guard had played a diminishing role and had almost completely disappeared from the public arena.⁴⁵

The combined use of the regular Army and the National Guard in order to repress demonstrations and uprisings was accompanied by local ceremonies in which both soldiers and national guards were the main actors. In April 1831, Governor Bigarrés asked the prefect to clear the Champ de Mars, the site of major military deployments.⁴⁶ He planned a joint parade of troops from the National Guard and the garrison for the King's Day the following month. The aim was to highlight the participation of the bourgeoisie in the maintenance of order, to underline the fraternity between the two forces, and to show their support for the July Monarchy. The participation of the armed citizens at the King's feast served to affirm the unity of the nation, a sign of the political crisis into which the government, strongly contested by the opposition and by mass movements, had fallen.⁴⁷

Subsequently, the armed bourgeoisie were mobilized more systematically. In April 1831, Bigarrés commanded a 60-man patrol to support the garrison troops whose infantry regiment had just left the town for another mission.⁴⁸ Two years later there was a large protest led by the republican opposition in Rennes. In order to maintain public security, the Gendarmerie and National Guard were mobilized to patrol the area around the Palace of Justice until midnight in order to prevent riots and disperse the crowd.⁴⁹ The rally likely took place in memory of the Parisian upheaval during June of the previous year. During General Lamargue's funeral there had been violent riots; the army and the National Guard were mobilized to fight the insurgents.⁵⁰ This resulted in injuries and deaths on both sides, including members of the National Guard who had fallen in battle. The regime later used the outcome of these riots to emphasize the strict discipline of the National Guard and the loyalty of the armed citizens to the monarchy.⁵¹

The events had a lasting impact on public opinion in Rennes, as the following year a large crowd gathered to protest in the city's main square. The protest was peaceful but a

⁴⁴ Ibid.

⁴⁵ AD Ille-et-Vilaine, 4 R 87, letter from Mayor Lorgé to Prefect Villegontier, 4 December 1821.

⁴⁶ AD Ille-et-Vilaine, 1 M 120, letter from Military Governor Bigarrés, 11 April 1831.

⁴⁷ Gießelmann, *Die 'Manie der Revolte'*, vol. 1, p. 105.

⁴⁸ AD Ille-et-Vilaine, 1 M 120, letter to Prefect Leroy, 4 April 1831.

⁴⁹ AD Ille-et-Vilaine, 4 M 91, report of the departmental gendarmerie, 12-13 June 1833.

⁵⁰ Bouchet, *Le Roi et les barricades*, p. 50.

⁵¹ Ibid.

local Gendarmerie officer claimed to observe that the individuals 'ayant de mauvaises intentions'.⁵² After all, some of the demonstrators were most likely armed. The officer expressly praised the members of the National Guard, who had reliably protected order by preventing riots. Their good discipline was a sign of commitment to the Orleanist regime and showed that the armed citizens were ready to cooperate with other armed forces in cases of imminent danger. This was also a result of their integration into a ceremony propagandising the unity of soldiers from all forces. That guardsmen and soldiers saw themselves as brothers in arms was further evidenced by societal rites such as banquets at which both the National Guard and units from the Army celebrated together.⁵³

III. HOW TO INFLUENCE PUBLIC ORDER POLICY? THE REVOLUTIONARY TRADITION OF THE NATIONAL GUARD AND ITS PLACE WITHIN THE LOCAL SOCIETY OF RENNES

The deployment of the armed bourgeois did not always earn public recognition. During Louis-Philippe's reign, members of the National Guard in Rennes were often threatened, insulted, attacked and seriously injured. These incidents showed that the armed bourgeoisie had rapidly lost its unifying force. Once perceived as a civic force and champion of the *Trois Glorieuses*, as had been the case at the beginning of the July Monarchy, the National Guard was increasingly assimilated into the Orleanist regime and perceived as a monarchist institution, rather than a popular force. Immediately after the July Revolution, armed citizens were attacked in public. In October 1830, a national guard, wearing the tricolour, was insulted by three passers-by who chanted '[...] ceux qui portent la cocarde tricolore sont de la canaille'.⁵⁴ The motif of the group was not clearly established, although the gendarmerie suspected the men to be supporters of the old King.

Another incident confirmed this assumption. In December of the following year, the guard at the town hall was verbally attacked, and the delinquent, a member of the municipal administration, loudly insulted the tricolour flag raised on the top of the guard tower.⁵⁵ The Central Commissioner expressed his particular concern to the prefect as he was in the process of evaluating a secret letter to the Countess of Berry. The address had been signed by numerous locally well-known personalities, including a prefectural office administrator. The letter assured the countess, who had arrived in upper Brittany in the summer of that year, of support for the overthrow of Louis Philippe's regime. The involvement of local government officials in this affair demonstrated the extent of the Carlists' influence, preparing the ground for a return of the elder Bourbons.

Of course, the Carlists were a minority in Rennes. But the repeated attacks on national guards were a sign of the conflicts that shook local society. They showed that despite the official propaganda, the inhabitants of the city never reached consensus around poli-

⁵² AD Ille-et-Vilaine, 4 M 91, report of the departmental gendarmerie, 12-13 June 1833.

⁵³ AD Ille-et-Vilaine, 4 M 33, police report, 22-23 September 1831.

⁵⁴ AD Ille-et-Vilaine, 4 M 89, report of the departmental gendarmerie, 24-25 October 1830.

⁵⁵ AD Ille-et-Vilaine, 4 M 90, letter from Commissioner Couarez to Prefect Leroy, 4 December 1832.

tical questions. On the contrary, the members of the reactionary opposition targeted the National Guard to express their protest against the rule of Louis-Philippe. In their eyes, the armed citizens stood for the downfall of the hereditary monarchy and the overthrow of the rightful heir to the throne. In addition, the armed citizens had repeatedly distinguished themselves by their aversion to the clergy and their refusal to take part in religious festivals.

Physical and violent attacks showed that the armed citizens had lost public prestige. Some were even victims of attempted murder: for example, the hunter Delibon was seriously injured.⁵⁶ In June 1831, he was attacked by several men, one of whom was armed with a dagger. Delibon received a several stab wounds and was taken to hospital. The search for the assassins was unsuccessful and Delibon was awarded compensation of 200 Francs by the government.⁵⁷ The Minister of the Interior declared that Delibon had been injured in the performance of his duties. In another case, an officer of the National Guard escaped a knife attack thanks only to the help of two comrades who accompanied him on a walk in Rennes.⁵⁸ The Central Commissioner attributed both attacks to workers and day-labourers hired by the Carlistian opposition.

It was therefore only logical that the local administration was keen to avoid any influence of the reactionary opposition within the armed bourgeoisie. While in other towns near Rennes, the National Guard had been infiltrated by supporters of the elder Bourbons and the local clergy⁵⁹, the troops of Rennes remained loyal to the authorities. As a matter of fact, this was the result of measures taken by the recruitment council headed by the towns' Major. After the adoption of the new law in March 1831, the council got to work in order to address the recruitment lists. In June 1831, a group of 360 citizens approached the prefect to protest their exclusion from active service. They explained:

*Un ordre social fondé sur la souveraineté populaire, ne doit admettre qu'une exécution franche et loyale des lois en général et surtout de celles dont l'objet essentiel est de donner le plus grand développement aux libertés publiques; il doit proscrire toute mesure qui tenterait à priver une partie des citoyens de l'exercice d'un droit que la loi garantit également à tous.*⁶⁰

Thus, the signatories of this petition demanded the application of the 1831 law, stipulating the opening of the National Guard for all citizens. In an explanatory note, the mayor told the prefect that he had scrupulously respected the procedure.⁶¹ No complaint had been made within the time limits provided for by law. However, the Prefect maintained the exclusion, following the Mayor's arguments. It is possible and even highly probable that the recruitment intentionally excluded persons who served under the Restorati-

⁵⁶ AD Ille-et-Vilaine, 4 M 502, letter from Major Longeril to Prefect Leroy, 16 June 1831.

⁵⁷ AD Ille-et-Vilaine, 4 R 90, letter from Minister of Interior Perier to Prefect Leroy, 31 August 1831.

⁵⁸ AD Ille-et-Vilaine, 4 M 502, report of Central Commissioner Couraez to Prefect Leroy, 24 June 1831.

⁵⁹ This was the case for Vitré (see: AD Ille-et-Vilaine, 4 R 88, letter from Sub-prefect Aubin to the Minister of the Interior Périer, 23 May 1831).

⁶⁰ AD Ille-et-Vilaine, 4 R 90, petition to Prefect Leroy, 25 June 1831.

⁶¹ Ibid., 9 July 1831.

on. Indeed, among the signatories were former officers of the National Guard of Rennes, such as Colonel Duplessis-Grenédan, who had been appointed Commander in 1814.⁶² Moreover, the Mayor noted that all signatories belonged to the Société de l'Amitié, an association known for its reactionary orientation.⁶³

Hence, the signatories used the government's legislation as an argument to claim their right to active service. They invoked the new law obliging every male citizen to perform military service. By insisting on the principle of universal recruitment, they defended the idea that the National Guard should be considered a popular force vital to securing popular sovereignty. Of course, the reactionary opposition used progressive ideas and measures of wider participation as an instrument to achieve its own political goals and to gain influence over the armed forces of Rennes. They demanded to be a part of the armed bourgeoisie, assuring to be all dressed and therefore already suitable to serve.

As a result, this established a political dimension to the National Guard: the notion of popular policing as source of popular sovereignty, a connection which the leftist opposition also made. The newspaper *La Tribune* explained that the armed bourgeoisie was a political institution and a new power within the state.⁶⁴ At the same time, Auguste Fabre claimed that every guardsman should have the right to take part in the elections for Parliament as a voter.⁶⁵ Hence, at the very beginning of the July Monarchy, the National Guard became the framework for political reform and the further democratisation of French society. The argument of the left was that the National Guard, through sacrifice for the community, proved its commitment to the nation and its ability to participate in political matters.

Three years after the first petition, another reached the authorities in Rennes. In January 1834, the Central Police Commissioner informed the Prefect that the officers François Hamelin and François-Adrien Blin, both respectively book dealers and commander of one of the hunter companies, had launched a petition in which they requested a reduction in service.⁶⁶ They argued that it had become too restrictive for armed citizens who pursued a regular profession. The Commissioner noted that the petition, open at the two officers' bookstore, was signed by 200 national guards, including members of the Hamelin and Blin companies. At the same time, the signatories called for the lowering of the electoral censuses, thus advocating for a reform of the electoral system which, to their view, should include all armed citizens.

The signatories were opposed to the unequal distribution of service charges among companies. Specifically, this request insisted on an opening of political participation, however limited. Note that the census for Parliamentary and regional elections had bare-

⁶² AmR, H 21, National Guard of Rennes, control over the officers, 1815.

⁶³ AD Ille-et-Vilaine, 4 R 90, letter to Prefect Leroy, 9 July 1831.

⁶⁴ *La Tribune*, 1 October 1830.

⁶⁵ *La Tribune*, 2 September 1830.

⁶⁶ AD Ille-et-Vilaine, 1 M 123, letter from Central Commissioner de Miniau to Prefect Leroy, 26 February 1834.

ly decreased since the Restoration.⁶⁷ Moreover, some years later, the French government was confronted with a broad movement in favour of abolishing the census for all members of the National Guard. Launched by left-wing deputies in 1837 under the slogan 'tout garde national doit être électeur', the demand for political reforms had been very successful across the country.⁶⁸ Hamelin and Blin's petition showed that at the local level, the bourgeoisie called upon to maintain order and insisted on the civic dimension of service in the political sense.

Hamelin and Blin were among the city's leading figures and both voted for the Chamber of Deputies. They acted as advocates for those comrades who did not have the same privilege. The petition earned Hamelin the respect of the other citizens and afforded him a rapid rise in the National Guard's ranks. In 1831, he was elected head of his company.⁶⁹ He was notorious for his involvement in the *Trois Glorieuses* for which he had received the July cross, a medal awarded to all combatants of the revolution.⁷⁰ He later succeeded in running for the position of battalion Commander in the 1834 election; five years later, he was proposed as a candidate for the position of legion Colonel, a position chosen by the King.⁷¹ In 1839, the outgoing colonel was reappointed but the very nomination was a victory for an officer considered close to the opposition. The Minister of the Interior, Thiers, criticized the Prefect for failing to prevent Hamelin's appointment.⁷²

Studies of Paris have shown the local units support for political reform.⁷³ Contemporary sources revealed at the same time that the members of the hunter companies were particularly active in participating in public protest and pushing for the right to vote.⁷⁴ This was due to the social background of the guardsmen: the men serving in those companies belonged to the *petit bourgeoisie* and had insufficient income to fulfil the requirement of the census. It is more than likely that the situation in Rennes was similar to that in Paris. For the hunters, the National Guard was the only place where they could express their views and elect the officers.⁷⁵ In this respect, the notion of a popular force for public order took on its full meaning. This explains why the petition for the lowering of the census also contained demands for a change in the way that the service was distributed between the units. From the point of view of the signatories, service in the National Guard should be accompanied by political rights and the participation in national and regional elections.

⁶⁷ Goujon, *Monarchies postrévolutionnaires*, p. 230.

⁶⁸ Gourvitch, 'Le mouvement pour la réforme électorale'.

⁶⁹ AD Ille-et-Vilaine, 4 R 119, minutes of the officers' election of the first hunter company of the second battalion, 26 June 1831.

⁷⁰ AD Ille-et-Vilaine, 4 M 33, police report, 17-18 August 1831.

⁷¹ AD Ille-et-Vilaine, 4 R 150, minutes of the officers' election of the second battalion, 31 January 1831.

⁷² AD Ille-et-Vilaine, 4 R 90, letter from the Minister of the Interior Thiers, 19 June 1834.

⁷³ Larrère, *L'urne et le fusil*, p. 265.

⁷⁴ *Le Constitutionnel*, 13 January 1840.

⁷⁵ Larrère, 'Les élections des officiers', p. 464.

In June 1834, the High Command responded to the petitioners' complaint. Colonel Rubillon suspended daytime service.⁷⁶ From then on, the National Guard was only called for night duty. This decision followed the decline of discipline observed by the General Staff; recruitment had been less stringent for several years, which posed a serious risk to public order. Rubillon's intention was to prevent this phenomenon from worsening and to stop the National Guard service from becoming irrelevant. As far as political reform was concerned, the refusal to abolish electoral census led to a considerable increase in the protest movements throughout France and the fall of Louis-Philippe and his government in 1848.⁷⁷

IV. CONCLUSION

The previous chapters have shown to what extent contemporaries perceived the National Guard as a power close to the people. The study focused on aspects and characteristics that turned the institution into a popular force of order in the eyes of citizens, armed citizens, local administration and regime. During the reign of the July Monarchy, the armed citizens came together spontaneously, took control of the public space and abolished the insignias of the old regime. They expressed their loyalty to the new King Louis-Philippe by adopting the tricolour flag, a direct reference to the tradition of the armed bourgeoisie and the establishment of the National Guard in 1789. In July 1830, the citizens understood the revival of revolutionary symbols as a prerogative to take up arms in order to guarantee security in the town and prevent unrest. At the same time, it expressed the citizens' expectations of the new regime to preserve revolutionary institutions and to participate in securing the public order.

Rites and feasts held in public were further evidence of this and showed that the younger generation among the National Guard, who had not experienced the French Revolution in their lifetime, was particularly active in celebrating the revolutionary legacy. They resumed the feast of the Federation in 1791 and recalled the unity of the free nation and the loyalty of the armed bourgeoisie to the King. In doing so, they demonstrated their autonomous understanding of the role of the armed bourgeoisie as pioneers of liberal achievements. This was accompanied by the revival conflicts previously overcome since the French Revolution. By taking action against members of the local clergy and by engaging in hostilities against the faithful, the National Guards showed their willingness to defend the legacy of 1789 with weapons if necessary. This attitude was further confirmed by the volunteers the Military Governor recruited in order to fight royalist troops in May 1832.

At the same time, the myth of the armed citizens was a source of political capital: Louis-Philippe recognized in the National Guard a source of monarchical legitimacy. He interpreted the gathering of units both in Paris and in the provinces as a sign of the great

⁷⁶ AD Ille-et-Vilaine, 4 R 88, agenda, 23 June 1834.

⁷⁷ Goujon, *Monarchies postrévolutionnaires*, p. 391.

support the throne received from the centre of society. The march of armed citizens on the occasion of official celebrations and military parades not only expressed their loyalty to the July regime, but was also intended to seal the glorious end of the 1789-Revolution. This had created the conditions for the bourgeoisie to serve the throne and for the constitutional monarchy to triumph over the reactionary powers in 1830.

The government adopted the same strategy of instrumentalization. The Minister instructed the prefects to use the regular forces in conjunction with the National Guard to repress demonstrations and uprisings. The participation of the armed citizens, highly regarded by the public in the early years of the monarchy, should justify the suppression of the unrest that flared up repeatedly throughout the country. Since the reign of Charles X, the army had a reputation for taking particularly brutal action against any opposition and demonstration, while the National Guard was perceived to protect the local population. As a result, the Rennes National Guard was regularly despatched to counter protesters and insurgents, proving to be well disciplined troops in the eyes of the military and police.

The commitment to the monarchy led the public to perceive the National Guard as a representative of the Orleanist regime. This resulted in hostilities towards the National Guard, attacked and sometimes seriously injured. The fact that these attacks were mostly perpetrated by members of the ultra-royalist opposition was partly due to the fact that the young national guards had distinguished themselves as virulent opponents of the clergy. On the other hand, these incidents proved that the armed bourgeoisie did not play a unifying role in society, rather they intensified political conflicts and thus deepened the division of the country. This was further encouraged by the law of March 1831 that allowed only wealthy citizens to enlist in the service, thus aggravating social tensions.

Against this backdrop, there was resistance to the implementation of the law at the local level. Armed and uniformed citizens were arbitrarily banned from active service lists and placed in reserve by the city's recruitment council. The persons concerned had served as officers under the rule of Charles X and were members of an ultra-royalist association in Rennes. They expressed their complaint in a petition addressed to the Prefect that insisted on the principles of popular sovereignty. In doing so, they carefully avoided reference to the revolutionary nation. Instead, they insisted that participation in the police service was a right of the entire local population, some of which could not be excluded arbitrarily.

Further petitions showed that the notion of popular sovereignty had been reinterpreted in political terms. In view of the conditions during the census monarchy, the left voiced criticism of the exclusion of the majority of society from political participation. In Rennes, members of the hunting companies supported claims by their officers to extend the right to vote to all guards. Even before the left-wing opposition launched a nationwide campaign in 1837 based on the same demand, the armed citizens of Rennes adopted this idea. Service in the National Guard was supposed to enable them to assert their own

interests with regard to the government of the country and the administration of their home town. The pioneer was the active citizen, as provided for in the Law of 1791, which in principle was extended to all armed citizens, regardless of their income or wealth. Admittedly, by ostentatiously attaching to the revolutionary legacy, the regime itself had provided the model for this historical recourse. The fact that, in reality, it lagged behind the claim of a popular and politically responsible form of order represented a dilemma, leading to the deadlock and overthrow of Louis-Philippe's rule in 1848.

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How to build a dissident public order. Actors and strategies of the Neapolitan folks' political mobilization during the 1848 revolution

Pierre-Marie Delpu

When revolution broke out in Palermo on January 12 1848 and then spread throughout the whole Kingdom of the Two Sicilies, it constituted the first experience of massive political mobilization in the state. It followed from a long tradition of riots and revolutions since the Early Modern period¹, and very quickly became part of a wider revolutionary wave, both Italian and European, and mainly characterised by the delegitimation of the Bourbon monarchy as an institution and as a means of government. The Meridional political propaganda, which was widespread at the European scale – the most famous examples being the well-known caricatures by French illustrator Honoré Daumier² – highlighted the main target of the revolution: the king-tyrant Ferdinand II, targeted mainly because he carried out atrocities against civilians, most notably the struggles of 15 May 1848.³ Such events gave a decisive impulse to mobilizations of opposition to the King, and led to a new evolution, opposing to the royal malgoverno, a Meridional society traditionally faithful to monarchy, as since the Early Modern period it had constituted one of the main elements of the social contract underlying the 'Neapolitan Nation' as a collective identity. This trend explained the weakness of republicanism and the limited capacity of mobilization of the Parthenopean Republic of 1799 to which the popular Sanfedist insorgenze put a stop.⁴

The popular participation in revolution is linked to the building of a public sphere of opposition, which constituted an underlying trend of the 1840s and reached a peak in Summer 1848, chiefly in the peripheral provinces of the kingdom. The actors of revolution very quickly sought to contain it by establishing revolutionary institutions of maintenance of order, such as the National Guard, but this quickly reached its limits when re-

¹ Lerra, Musi, *Rivolte e rivoluzione*

² From August 1848, Honoré Daumier began to publish a series of political caricatures devoted to the « Neapolitan case » in the French satirical newspaper *Le Charivari*. Like the most famous cartoons in the series (« À Naples, le meilleur des rois fait régner l'ordre dans ses États », 27 août 1848), those devoted to the Neapolitan case stage the political abuses of King Ferdinand's monarchy through his politics of maintaining order, relying on coercive tools which were unfavourable to the people. The idea was taken up widely in the European liberal propaganda of the 1850s (Moe, *The View from Vesuvius*).

³ Recent historical works on the Mezzogiorno have shown the extent of that turn, linked with the monarchy's politics of maintaining order (Mellone, 'Dopo i fatti napoletani del 15 maggio 1848').

⁴ Davis, 'Rivolte popolari e controrivoluzione'.

volutionary counterpowers emerged in the face of the moral discredit surrounding the monarchy, particularly in the provinces of Salerno and Calabria where the insurrection was at its most radical.⁵ In order to fight against a regime considered to be a tyranny, the revolutionaries had to make the ordinary folk participate in police and justice practices within the framework of a dissident public order, based on the appropriation of the competences and practices of sovereignty. This appeared as a complex process which involved the establishment of normativities alternative to the ones the monarchy was relying on, the use of the traditional tools of revolutionary public policing, including the National Guard, and the display of new features of massive mobilization of the people against the monarchy.

I. DISSIDENT NORMATIVITIES

Since it was established in the first months of 1848, the revolutionary public order was dependent on specific normativities. These included the inversion of policing practices, making the people actors in a process against the monarchical order which was considered to be illegitimate. The repertory of collective actions of radical mobilizations showed it: although the sources here are very scarce, the judiciary sources linked with the political processes which took place between 1849 and 1854 still allow us to comprehend these actions. The systematical target of the mobilisations was the king and his representatives: there were frequent trials of the royal couple's statutes, put on in the public arena, and ending in death sentences being given to effigies of the sovereign. The use of iconoclasm, which was frequent during the 1848 revolutions, particularly in the Italian States⁶, consisted of ritualized destructions of symbols of the monarchical authority, destined to cleanse the public space from representations of kingship. This practice was most prominent in Citerior Calabria, around Cosenza, where 575 subjects were given various sentences after the trials which put a stop to the revolution. These were both spontaneous expressions of the ordinary hatred against the Bourbon monarchy, fuelled by political emotions, and also conscious acts designed to eliminate from the public space the king's emblems, portraits and statutes, in order to mark an inversion of the norms and the appropriation of authority.⁷ In the absence of being able to directly attack the king who didn't leave the kingdom's capital during the whole period of the insurrection, the attackers instead directed their attentions towards the symbols which embodied his power. Other one-off attacks were aimed at representatives of authority, particularly the gendarmerie, but they were very scarce in comparison to other European states at the same time, such as France. In the province of Cosenza, only 110 cases were judged during the political proces-

⁵ Buttiglione, *La Rivoluzione in "periferia"*.

⁶ See Fureix, *Iconoclasm et révolutions*. In the Italian states, the 1848 revolutions saw a significant increase in iconoclastic practises as one of the most common forms of contesting the established order (Arisi Rota, '„Così brutale insulto"').

⁷ I have already studied this point elsewhere in relation to the Calabrian provinces (Delpu, 'Les acteurs populaires face aux images de la monarchie').

ses that followed the revolution, equal to hardly more than 3% of the subjects submitted to a sentence.⁸

These practices throw light on the concurrent representations of authority which opposed around the gestion of public order. Here again, the turning point of 15 May 1848 was significant, and the initiatives first came from private individuals as distinct from the institutions established by the monarchy to contain the revolution in its four first months. For most of the provincial revolutionaries, particularly those linked with the radical movement, the struggles were a sign that the king had breached his political contract with Neapolitan society. In that respect, the monarchy appeared as disloyal, and so needed to be replaced by other forms of authority, considered more valuable, even though these other forms were uncertain as they were not precisely defined. Rather than normative redefinings, the actors' social practises highlighted the substitution of one form of legitimacy for an other one, supported by people who were well-known at the local scale of the village communities. In Castelvete, a little town of the Reggio province, on 16 May 1848, one of the local landowners, Ilario Scutari, publicly called for the execution of the subjects who refused to remove the royal proclamations put up on the walls of the town chancellery.⁹

The speed with which events happened, just the very next day after the slaughter, can be explained by the circulation of information which was facilitated by the telegraph, a device to which some specialists attribute the success of the revolution.¹⁰ The initiative was part of a complex plan of action which included destruction, substitution of objects, and simulated tyrannicides, and which were all directed towards a monarchy regarded as failed. Much more than subversion of the monarchical order, such rituals built on practices of popular and spontaneous justice and they highlight how the revolutions' stakeholders, particularly the most radical of them, used to plan moral constructions in the public space of the insurrection: if the alternative order had never been defined nor named but was left to the initiative of provisional organizations formed by the revolutionaries themselves, it has an implicit moral objective, which consisted in substituting a more acceptable system of power in place of a perjurious monarchy.

Within this process of inverting norms, the role played by the population was decisive. This did not constitute a truly new phenomenon, as the last decades of the Early Modern era already saw an important increase in the participation of the population in political mobilization, particularly around local stakes and in the opposition to the power abuses of the lords during the « wars against tyrants », of which the Calabrian provinces included numerous examples.¹¹ But the mobilizations of 1848 stand out, both for their num-

⁸ This figure comes from the political trials held in the province of Cosenza at the end of the revolution and until the 1850s (Archivio di Stato di Cosenza [then ASCS], Intendenza, Processi politici). It appears very low in comparison with the French situation, where altercations with the police were one of the most common practises of the mobilisation of insurgents (Lignereux, *La France rébellionnaire*).

⁹ Archivio di Stato di Reggio Calabria (then ASRC), Atti di Polizia, I, 1, ad nomen.

¹⁰ That aspect of circulation of ideas and practises has already been studied for the Kingdom of the Two Sicilies (De Lorenzo, 'Il 1848-1849').

¹¹ Cecere, *Le armi del popolo*.

ber and for their stronger democratic orientation, in continuation of the Meridional liberals' efforts to open the political field to the masses by the 1830s. Those efforts lead in particular to a wide network of secret societies which used to give more interest to local problems than to the wider independence of Italy.¹² Such instances of democratic resistance, which did not start in 1848, were part of a double evolution: first, the population resisted the centralized politics of the kingdom and its land and tax circumsequences, second, they refused Bourbon absolutism, reduced to its coercive practises and the abuses in its administration and army. The combination of these two motives was the principal source of the popular mobilizations which relied on the economic and social protests in the 1840s which contemporaries used to call *rivindiche*.¹³ However, the people's participation in such mobilizations had been neither autonomous nor systematic: it was always framed by local elites who were well-known to local folks, as they were part of the same community. The mayors and intendants were part of that framing as many of them supported the dissidence movement, for example in Cosenza where the mayor Tommaso Ortale and even more so the intendant Tommaso Cosentini played an essential role at the insurgents' side.¹⁴ More frequently, priests used to encourage those mobilizations to a wider extent, using their authority linked with their social and religious function and delivering politicized sermons, a privileged means to spread if not liberal or democratic ideas, at least revolutionary exhortations to which populations were at first scarcely receptive.¹⁵

In this respect, the integration of ordinary people into the alternative order which the revolutionaries wanted to construct appeared as a top-down politicization process, drawing on local elites and depending on the local political stakes. The involvement of the traditional authorities, particularly the *borghesia rossa* which was mostly found in the Southern part of the kingdom, contributed to the movement and linked the Mezzogiorno to a Mediterranean scheme of the 'birth of modern politics'.¹⁶ But it was not built in an uniform way, and had to face some opposition: during a riot in September 1847, in Bovalino, a village close to Gerace, there were two priests who appealed to the people to make and defend the revolution, Francesco Jelasi and Giuseppe Zappia. They were houn-

¹² On the construction of the Southern Italian liberal movement, see Delpu, *Un autre Risorgimento*.

¹³ This word, used in the stakeholders' vocabulary as *revindica* or *rivindica*, depending on local variants, refers to the protest movements linked with popular demands about ownership of the common lands. Antonio Buttiglione has suggested that they have been one of the main dynamics of the rural masses' support for the 1848 revolution in the whole Southern part of the Kingdom of the Two Sicilies (Buttiglione, *La Rivoluzione in "periferia"*, pp. 38-62).

¹⁴ Andreotti, vol. III, p. 334.

¹⁵ On that practice, see Delpu, *'La parole des prêtres'*.

¹⁶ That scheme had first been brought out for nineteenth century Spain by Jean-Philippe Luis, who then wondered about its validity for other States having comparable social and political structures (Southern France and Italian states, see Luis, *'Réflexions autour de la naissance de la politique moderne'*). It is based on converging data which enlighten the modernization of the political frame after the revolutionary era (emerging from national political space, birth of parliamentary sovereignty, broadening of the public space through press).

ded by the people of the village and beaten until they bled.¹⁷ Such tensions, which resulted in outbreaks of popular violence, were a symptom of a political fight which seemed like a generalized civil war. They reflected a territorial crisis which linked the kingdom with other territories affected by the deligitimation of the Bourbon monarchies.¹⁸ While the revolutionaries constituted one of the parties in that conflict, they planned to arm the people to defend the revolution and so maintain the public order they wanted to establish.

II. THE NEAPOLITAN NATIONAL GUARD, A LIMITED TOOL OF POPULAR MOBILIZATION

As in many European States which took part in the revolutions in the first half of the nineteenth century, the Kingdom of the Two Sicilies was equipped with a tool to control public order, the National Guard, starting from the first institutional forms of revolution in February 1848. As an armed corps formed from the bourgeoisie, and relying on elected representatives, the National Guard was a legal way to defend revolution, and which had existed on and off in the Meridional political landscape during the earlier two revolutions in the Kingdom in 1799 and in 1820-1821. Consisting of local battalions established at the level of the municipalities, the guard was characterised by its wide geographical and strategical reach.¹⁹ It had not been the only form of armed mobilization of ordinary citizens. There were also popular militia which arose in a more spontaneous and informal way, which had been one of the more efficient methods of mobilization the legitimists wanted to oppose to the revolution, particularly during the *inzorgenze* of 1799.²⁰

The National Guard's main aim was, as in the other countries where it existed, to integrate people into the defence of the revolution and also the maintenance of law and order, seeing as initially there was some reluctance to get involved in revolution. However, as the revolution's stakeholders were divided between moderates who were in favour of a reformist path which would support the monarchy, and radicals who supported a more accomplished revolution, the initiatives for integrating people into the maintenance of public order quickly expanded beyond the National Guard, which was seen to be weak in mobilizing people, essentially as it was a tool in the service of the kingdom's elites. The radical press of the Kingdom used to express this argument: the democratic newspaper *Mondo vecchio e mondo nuovo*, for instance, denounced the National Guard as an opportunist institution, devoted only to satisfying the ambitions of several local elites and

¹⁷ Messina, *Il clero calabrese* p. 45.

¹⁸ Pinto, 'Una prima guerra globale'.

¹⁹ See De Angelis, *Difendere la Rivoluzione*, and, on the province of Salerno, Ferrari, *La guardia nazionale a Salerno*. The role of those institutions in post-revolutionary European societies is well-known: see for instance and on the French case, Bianchi and Dupuy, *La Garde Nationale*, and for the Italian one, Francia, *Le baionette intelligenti*.

²⁰ The role of ordinary Neapolitan folks in the monarchical militias of 1799 has been studied by París Martín, 'Le peuple royaliste en armes'.

unable to really provide for the defense of liberties in the kingdom's provinces.²¹ It was precisely the grabbing of the positions by a small number of people, mostly provincial notabilities, that was the main reason for that argument. Others denounced the Guard as a coercitive institution which, instead of integrating the people into revolution, would submit it to constant repression by suppressing all subversive activities, as suggested, after the failure of the revolution, by the democrat Ferdinando Petruccelli della Gattina:

*The moral misery of Naples' common people (popolo basso) has no measure. As it is gifted by nature of a svelt and prolific intelligence, the necessity to silence it appears all the more dangerous and regrettable. [...] The turbulent movements of the Neapolitan plebe [...] force us to arm ourselves with the resentment of having maybe to rise up against our brothers. [...] The Neapolitan plebe, we can't ignore this, is a pious, ignorant, greedy, talkative one, full of curiosity and awkwardly religious. Gifted with such features, it ponders only weakly the hand ruling it, so long as it has means of subsistence, freedom of speech and freedom to take part in celebrations and religion. In that respect, not only its needs are not opposed to a constitutional government, but can favor it.*²²

Such a portrait of Neapolitan folks made them a collective stakeholder in the revolution, compatible with it on the condition of wanting to arm these folks with appropriate tools. Here Petruccelli voiced one of the most frequent arguments used by the democrats, namely the fact that the National Guard was unsuited to the precise situation of the Neapolitan people as it was a foreign and imported force. This unsuitability for the local conditions of the Mezzogiorno explained why the institution was considered to be inefficient, while it would actually have rather been the support of political revolutionary sociability than of a real support of revolution.

²¹ Mondo vecchio e mondo nuovo, I, 40, April 12 1848, p. 157.

²² Petruccelli della Gattina, La rivoluzione di Napoli nel 1848, pp. 148-149.



Picture 1 : The National Guard on a war footing (taken from the satirical newspaper *L'Arlecchino*, May 1848)



Picture 2 : The café of the National Guard in Naples (*ibid.*)

This accounts for the various attitudes to moving forward past the first aims of the National Guard, either by disarming it as it was no longer useful, or by adapting it as it would otherwise only be a tool to reproduce the traditional social and political order which would prevent the further spreading of revolution. These attitudes developed essentially after 15 May 1848, when the monarchy dissolved the National Guard as the government grew anxious about the democratic election of officers. However, even if the institution was outlawed, it went on existing in the provinces and areas which the central monarchy could only control with difficulty, being often informal and weak to meet the needs of defending the revolution. Some of the local revolutionaries were looking to master its working within the framework of isolated initiatives. In the last days of May 1848,

Antonio Montagnese and Giuseppe Villone, two landowners of Iatrinoli near Reggio Calabria, were hoping to prevent the municipality's National Guard from obeying General Nunziante's orders.²³ Some others were hoping to develop the mobilizing function of the National Guard by making it a tool of the dissidence native to the kingdom's southern provinces. The province of Reggio offered the most significant cases: one of Castelvetero's landowners, Ilario Scutari, forced the municipal administration to enrol the names he indicated amongst their recruits.²⁴

Such alternative uses revealed the limits of the National Guard as a tool for massive popular mobilization and for the collective defence of the revolution. Other tools appeared more effective in a political and social context which was overdetermined by traditional moral economies. From that point of view the circulation of information appeared more efficient, with the recurrence of false rumours reporting the king's death. In Calabria, these rumours lead to the destruction of statues of the emblems of monarchy in an attempt to turn an established fact, the vacancy of power, into a much more systematic political opposition to the monarchy. Such a practise became rooted in the fragmentation of the political communities built at the local scale of the village or the valley, often self-structured. The connections with other political spaces were thereby reduced to few people, essentially local elites or state employees who used to subvert the information they were spreading.²⁵ Other practices were part of that repertory of collective actions, as political speeches by the democratic priests were used to incite the people to defend the revolution against the forces that could threaten it, particularly the Bourbon monarchy. This practice was however depending on personal initiatives which, even if they were often converging, were sometimes criticised by the most radical element amongst the democrats. In the newspaper *Mondo vecchio e mondo nuovo*, in the last days of March 1848, Petruccelli denounced, for example, the inefficiency of these political speeches, both because they were not regular and also because unknown political notions were not always clearly explained to people.²⁶ That is why the practices of political mobilization diversified, relying on initiatives which aimed to integrate the people into efforts to maintain revolutionary order. They revealed the agency of the Meridional revolutionaries and their strategies to include the people in the insurgent order.

III. INTEGRATING ORDINARY PEOPLE INTO EFFORTS TO MAINTAIN ORDER

The failure of the most frequent practices of political mobilization pushed the insurrection's stakeholders to consider other strategies. The most specific consisted in delivering money to the general population to incite them to take part to the defence of the revolutionary order. In the light of the National Guard's inefficiency, and while sever-

²³ ASRC, Atti di Polizia, I, 1, ad nomen.

²⁴ Ibid.

²⁵ Caglioti, 'False notizie, complotti e vociferazioni'.

²⁶ *Mondo vecchio e mondo nuovo*, I, 25, March 25th 1848, p. 99.

al people regretted the census requirement which limited the number of men authorized to involve, democrats such as Aurelio Saliceti proposed including common men from the central neighbourhoods of Naples, while most of them had supported the Bourbon monarchy and had taken part in the suppression of former revolutions.²⁷ Popular resistance to the revolution were the main issue at stake in these debates. Despite the liberals' increased efforts to integrate people in the revolution, this only resulted in very little popular support, while the economic and social demands linked with the question of ownership, constituted one of the most relevant arguments.

In such conditions, the financial mobilization had been a decisive tool in rallying people to join the insurgent order. The economic crisis of 1847, whose repercussions were perceptible in the Mezzogiorno until the 1850s, contributed to the success of these initiatives. From that point of view, the raising of armed voluntaries was first organized by individual and isolated people, who promised a daily compensation of three carlines to anyone who would take up arms to defend revolution. The distribution of money, which was the main way of raising up of men, relied on local networks at the level of the neighbourhood or the village, and these were most numerous in the province of Reggio Calabria. In that region which gave rise to conflicting political mobilizations, that practice would have facilitated the stabilization of the revolutionary order. In Spring 1848, Giuseppe Idone, a landowner from the Calanna village, recruited men to defend the revolution. He hoped to place these men in the *campi rivoltosi*, informal structures created from June 1848 to defend the local positions of the insurgents against a possible incursion of the Bourbonian army. Idone's action relied on a family-based network: his brother Pasquale, a landowner, asked the communal cashier (*cassiere comunale*) for the necessary funds, withdrawn from the taxes collected by the municipality, while their cousin Rocco, a farmer, took care of educating the new recruits in the arms drill.²⁸ This familial and local centering reveals the strategies of politicization according to which the revolutionary public order should be constructed in informal ways. However, these did not prevent initiatives of coordination being taken to harmonize the raising of men, such as those of the post inspector Achille Parise in the province of Cosenza. Here, during Spring 1848, Cosenza took care of recruiting emissaries in order to raise armed groups, which were one of the most frequent models of military formations in nineteenth century Italy. The revolutionary committees from the province had endorsed this role by naming Parise as a war commissary.²⁹ The funds given to the revolution's defenders were also a decisive factor in the increase of popular participation, and most often involved people who already had an experience of arms drill. The sources available give very little information on military learning; we only know that the connections with Sicily, facilitated by geographical closeness, facilitated the circulation of arms among the Calabrian

²⁷ Di Ciommo, *La nazione possibile*, p. 257.

²⁸ ASRC, *Atti di Polizia*, I, 1, ad nomen.

²⁹ Archivio di Stato di Napoli (then ASNA), Archivio privato Borbone, 1044, 38, ad nomen. On guerra per bande, the main form of popular armed mobilization in nineteenth century Italy where it has been particularly promoted by Giuseppe Mazzini, see Della Peruta, 'La guerra di liberazione spagnola'.

revolutionaries. One landowner in Bagnara (province of Reggio), Giuseppe Veneziano, provided insurgents with arms and hid in the village church several cannons given by Sicilian insurgents.³⁰

Due to the lack of a coordinated public subscription, the recruitment of men was taken care by local elites and took place through several ways, ranging from criminal to lawful methods. The province of Reggio offers an example where we can observe the diversity of cases. The first consisted of stealing public funds, and was a continuation of numerous revendications against the abusive taxes asked of the kingdom's subjects since the reform of the French occupying monarchy during the Napoleonic era. The people's demands dealt with the most contested tax as it was considered the heaviest, the *fondiarìa*, while some insurgents considered the possibility of replacing this with a direct contribution to the *campi rivoltosi*. From that point of view, some employees of the supply office who sustained the revolution played a decisive role. These included men such as Lorenzo Pitti, municipal cashier in Laureana, who in July 1848 embezzled the amounts collected in the municipality in order to give funds to the insurgents. Others managed to raise popular support by spreading false rumours: for example, the priest Giuseppe Galloro, from Gattaro, pretended during mass that he had stolen a huge suitcase full of money belonging to the main stakeholder of the repression, the general Alessandro Nunziante, appointed by the Bourbon monarchy in June 1848.³¹ These developments sometimes came with pressure from revolutionaries on tax administration employees: one of the landowners of Casoleto, Luigi Longo, forced the municipal cashier Angelo Calvo to give funds to the insurgents, threatening that he would capture the village landowners' oxes, and this allowed him to extort 100 ducates which he then divided between the revolutionaries.

More legal ways also contributed to financing the revolution, drawing on donors' individual initiatives. One example occurred in Santo Stefano, one of the villages of the province of Reggio where the insurrection was particularly developed around the Romeo family who had been involved in the liberal movement since the 1820-1821 revolution. There, a craftman, Stefano Surace, gave money to the insurgents to accelerate the mobilization and support his brother Demetrio's action. He was one of the priests of the village and since May 1848 had preached against the king's tyranny. Some others proposed coordinating their efforts to give the insurgents from the province a common fund allowing them to finance their activities. For this reason, in July 1848 three landowners from Bova, Concetto Malgeri, Pasquale Parragia and Saverio Polimeni, who were themselves donors, organized a subscription list on a provincial scale; the list was devoted to covering the needs of revolutionary public order. Even if it was essentially a case of proposals, the appropriation of some prerogatives by dissident revolutionaries explained that the raising of funds could have been more prescriptive. The involvement of some employees of tax or justice administration also contributed to it: in Seminara, the local judge Antonio Foti sought to impose by force a tax in order to give the proceeds to

³⁰ ASRC, Atti di Polizia, I, 1, ad nomen.

³¹ Ibid.

the insurgents and to encourage the revolution.³² Such practices reflect the major social structure of the insurrection, at first focused on the local elites, then spreading according to a top-down model of politicization, which was common with other Southern European countries. They enlist popular participation to maintain order. During this period in a wide part of the Mezzogiorno, a democratic movement had been spreading since the 1830s, and the involvement of ordinary people in maintaining revolutionary order was a particularly efficient means of appropriating the competences of sovereignty.

IV. FROM PARTICIPATION, TO MAINTAINING ORDER, TO THE APPROPRIATION OF SOVEREIGNTY

While the revolution wanted to invert some of the kingdom's political and social hierarchies by establishing an alternative order, the maintaining of order appears to have been a global process in the service of this political ambition. Revolutionary leaders adopted practices of control and normalization which took place in a wider process of the appropriation of sovereignty, when local communities were demanding autonomy from a centralized monarchy which was considered abusive. The capacity to maintain order is one of the regalian competences whose appropriation, even if sporadic and progressive, went hand in hand with the controlling of places of power. Most of these cases were found in Reggio: after 15 May 1848, the lawyer Domenico Muratore, former republican of 1799, installed the direction of the local revolutionary committee in the premises of the provincial intendancy, and gave his tacit agreement to several seditious demonstrations organized against the king, to sustain the Sicilian insurgents.³³ A comparable situation took place in the province of Cosenza where the intendant Tommaso Cosentini, although moderate, at the same time installed the revolutionary Ricciardi Committee in the premises of the administration of which he was in charge.³⁴ Far from being limited to ordinary seditious practices, such appropriations were an answer to a project, linked to the political learning of the Meridional provinces and to the transfer of monarchical sovereignty to the people. This relied on the idea that the political contract between the king and the people had been broken, which was a central point in Neapolitan revolutionary propaganda, and concentrated the political debate on the theme of tyrannicide. The spreading of false rumours was a particularly efficient means of mobilization, and it corroborates that idea: in the province of Cosenza, one of the members of the revolutionary committees of Spring 1848, Stanislao La Mensa, spread the rumour King Ferdinand II had been destituted and taken prisoner.³⁵

³² Ibid.

³³ Ibid. The provincial police sources remind us that such supports had appeared starting from May 16 1848 when, thanks to the quicker circulation of information via the telegraph, the news of the slaughters from Naples had become known in Calabria, where locals revived the radical political mobilization (De Lorenzo, 'Il 1848-1849').

³⁴ ASCS, Processi politici, 47, 273.

³⁵ ASNA, Archivio privato Borbone, 1044, 38, ad nomen.

Such rumours were numerous, and fed another aspect of the revolutionary maintaining of order: ruling on the king-tyrant's fate by means of popular justice practices which were common in Mediterranean Europe at that time. The informal trials of the king and his representatives used political charivaris, a privileged way of integrating the popular masses into politics during the European revolutions of 1848.³⁶ As they wanted to avenge the ordinary folks who they believed had been sacrificed by the Bourbon monarchy and erected them as martyrs of the liberal cause, they wanted to execute the torturers at whose mercy they found themselves. This was a continuation of a widespread symbolic plan, using ritualized destructions of monarchical emblems. But the acts of expiation were transferred into the figured representations of monarchy, most of which involved stoneware statues placed in the public buildings. In Postiglione, in the province of Salerno, in Winter 1848 the pharmacist Nicola Cafaro slashed a portrait of King Ferdinand I who had already died in 1840.³⁷ Such objects were targeted as they were the only ones of the monarchy to stand in the living spaces of subjects in peripheral provinces. Other sacrilegious practices pertaining to spontaneous justice were also staged by local populations as mock courts: in Cosenza, the judiciary sources mention – without naming him – a priest who in Summer 1848 baptized a ram and a cow with the royal couple's first names, giving them a sentence of execution, making them burn publically, serving them dinner at an opposition banquet and then throwing their bones in the common grave.³⁸ The public staging of such trials confirm they are practices of spontaneous justice, aiming to be a spectacle for local people. These used to rely on common practices revealing ordinary hatred for the Bourbons, but these also enlighten the way dissidence supported popular justice as it was enacted in the construction of autonomous political communities.

While from April 1848 onwards, the Bourbon monarchy started a progressive conservative evolution which became more precise after the slaughters of 15 May, the maintaining of revolutionary order by ordinary people reveals the scale of the protest, which gained a new focus on local space. Slaughters were indeed perceived as a breach of oath against the political community, which had been regarded since the Early Modern Era as *nazione napoletana* according to a tacit agreement between the people and the king.³⁹ From then on, since the very days after 15 May 1848, the maintaining of order had been assumed by revolutionary committees which were equipped with regalian practises. The Ricciardi committee demonstrates this. It was established in order to federate the radical opposition on the provincial scale in Calabria. It developed police, justice and tax prerogatives, and especially focused on building municipal committees at the scale of the villages, through the decisive involvement of local elites. The Cassano committee, in the province of Cosenza, was built around the priest Nicola Minervini.⁴⁰ In Majera, the lo-

³⁶ Delivré.

³⁷ Archivio di Stato di Salerno (then ASSA), Processi politici, 279, 15.

³⁸ ASNA, Alta Polizia, 640, 2563.

³⁹ For more on this, see Musi, *Mito e realtà della nazione napoletana*: the late eighteenth century saw the birth of a difficult coexistence between the Neapolitan nation, still considered as pre-eminent, and the Italian one.

⁴⁰ ASNA, Archivio privato Borbone, 1044, 38, ad nomen.

cal committee was created in June 1848 on the initiative of a landowner, Francesco Brani, who was a regular correspondent of revolutionaries linked to regional elites such as Tommaso Ortale, former mayor of Cosenza, and Domenico Mauro, main figure of the Calabrian rural protests of 1848, or national political stakeholders like Giuseppe Ricciardi.⁴¹

During Summer 1848, those dissident powers became rooted in new political spaces which were equipped with regalian prerogatives, according to which they organized the defense of the Southern provinces against the Bourbonian armies. Established from June 1848 onwards, these groups constituted tools of massive mobilization, such as in Spezzano Albanese where streamed about 3 000 members. Their prerogatives of sovereignty particularly consisted of fiscal ones, through the appropriation of government practices with the support of competent personnel, while some employees of the administration were sustaining the liberal movement. In Cosenza, in July 1848, the Ricciardi Committee charged one of its members, Bruno Rongelli, to raise funds as a controller of the provincial taxes.⁴² In these alternative spaces of sovereignty, the defence of popular fiscality was a central focus, and explained the setting of popular governments. The camp of Santa Eufemia, in the north of the province of Reggio, was one of the most revealing cases. Established starting from June 1848, it was helped by widespread popular mobilization supported by local elites. One month later it got a provisory government, lead by a lawyer from Bova, Giuseppe Tripepi, who was awarded the statute of president although no legal text prescribed this.⁴³ At the same time, considering the involvement of local administrative employees such as Benedetto Accorinti, some go-betweens of that dissident government settled in the district of Gerace, which had been the scene of a relevant protest movement since September 1847, which saw the execution of five young local insurgents and their immediate edification as political martyrs.⁴⁴ Accorinti established a Comitato Distrettuale which was charged with the task of fund-raising in order to ensure the maintaining of order. The appropriation and defence of the tax competences was also expressed in other ways, because the 1848 revolution had resulted in alternative tax systems in the central neighbourhoods of Naples, lead by ordinary folks linked to the camorra and wanting to finance the resistance against monarchical authority.⁴⁵

Despite the great diversity in local situations, the progressive integration of ordinary people into the defense of the new powers as established by the insurgents took place in the wider context of the translation of authority, which awarded self-proclaimed counterpowers who were pretending to be democratic. The rural spaces of the Southern part of the kingdom saw the emergence of 'plebeian kings' (*re del popolo basso*) who ap-

⁴¹ Ibid.

⁴² Ibid.

⁴³ ASRC, Atti di Polizia, I, 1, ad nomen.

⁴⁴ The district of Gerace, in the northern-eastern part of the province of Reggio, was for a long time immune to the insurrections in the rest of the province, due to its geographical isolation (Cataldo, *Cospirazioni, economia e società*).

⁴⁵ Fiore, *La strutturazione del fenomeno camorrista*, p. 369.

peared as liberators, or were considered as substitutes for the king's authority. In the Italo-Albanese village of San Lucido, Carlo Manes, a landowner and captain of the local National Guard, had been considered that way by the municipality's inhabitants, and in Summer 1848 was acclaimed to the cries of *viva la libertà, morte al Tiranno, viva il capitano Carlo Manes*.⁴⁶ Such substitutions of authority gave legitimacy to revolutionary leaders: in December 1848 in San Cosmo, a client of the Mauro family, Gervasio Protasio Bua, announced the king's forthcoming destitution suggesting that the throne would get given back to Domenico Mauro.⁴⁷ However, there was no consensus on the form which these dissident powers should take: some of them, as in Santa Eufemia, appeared as insurrectional governments, revealing their provisory aspect, while the republican proclamations remained occasional and isolated, and more often used to express spontaneous protests rather than real political projects. In Paola, on the western coast of the province of Cosenza, Luigi La Costa proclaimed a republic by destroying the statues of the king with other villagers, but he neither wanted to settle a government nor to appropriate the regalian prerogatives, nor to build a defence system destined to ensure its continued existence.⁴⁸

In conclusion, the 1848 Neapolitan revolution reveals the real participation of ordinary people in the process of maintaining the dissident public order. This was part of a double process of politicization of the masses, at first directed towards the 'people', understood as civil society at whole, and especially towards the popular masses in a descending politicization scheme, relying on local stakeholders who identified as revolutionary elites. The question remains whether this evolution, which can be observed at the same time in other European Mediterranean states,⁴⁹ led to a real popular appropriation of politics. The reinvestment of a part of the regalian competences it carried out including security and taxes, reveals a political transition to the advantage of dissident and informal political communities. However, the process in general had been widely controlled and gathered by local elites and it contributed to their social and political promotion. The municipal or regional sovereign governments they formed did not have any real political foundations, and the initiatives they supported rather came from protest practices than from political projects destined to continue to exist. Such political education had thus occurred in the context of systems doomed to be provisory, without a real awareness of the sense of the movement. It shows that the shift of the Southern Italian masses to political modernity, even if this noticeably increased in 1848, still remained unequal and incomplete.

⁴⁶ ASNA, Archivio privato Borbone, 1044, 38, ad nomen.

⁴⁷ Ibid.

⁴⁸ Ibid.

⁴⁹ See Luis, 'Réflexions autour de la naissance de la politique moderne'. More recent works have shown that such situations were frequent in the Italian states around 1848 (Francia, 1848. *La rivoluzione del Risorgimento*).

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Policing a Capital City during a 'Revolution' – The squadre in Palermo at the Time of the Italian Unification (1860)

Emilio Scaramuzza

I. INTRODUCTION

In an article written in 1990, Paolo Pezzino highlighted the strong connection, which, he claimed, existed throughout the 1800s between the emergence and actions of the Sicilian squadre (squads) and the development of delinquent phenomena such as the mafia.¹ This partially teleological interpretation, further developed a few years later in a successful work focused on the 'congiura dei pugnatori' ('stabbing conspiracy'),² has recently been scaled down by the points suggested by Francesco Benigno in his work on the origins of the mafia and the camorra.³ From a number of points of view, the theme of the Sicilian squads is however central within the revolutionary season of Southern Italy in the nineteenth century and therefore lends itself to various interpretations. As a matter of fact, the squads had a key role in one of the pivotal moments of Sicilian history between 1820 and 1866 (the year of the 'Sette e Mezzo' revolt) and beyond, and in particular during the 1848-49 revolution and Garibaldi's campaign of 1860.

In the year that de facto coincided with the fall of the kingdom of the Two Sicilies and with the attainment of Italian unity, the Sicilian insurgents, hurriedly grouped into armed mobs, once again found themselves on the front lines during Garibaldi's advance towards Palermo. However, while the main object of study has been the 'military' role of these squads,⁴ on the other hand one must consider the events that took place after the city being taken by Garibaldi's red-shirted volunteer army to understand the role of these local individuals in the urban landscape and its immediate vicinity. To this end one may refer to the categories which are typical of the history of police,⁵ which will certainly be useful to analyse how, in the weeks that followed the liberation of the island's main urban centres, Garibaldi's new establishment and, consequently, the Sicilian insurgents (primarily the squads) managed to face the delicate problem of public order ma-

¹ Pezzino, 'La tradizione rivoluzionaria siciliana'.

² Pezzino, *La congiura dei pugnatori*.

³ Benigno, *La mala setta*. See also Benigno, 'Mafia o mafia?'.

⁴ Corselli, *La liberazione della Sicilia nel 1860*; Merenda, 'Contingente delle squadre siciliane d'insorti'; Pieri, *Storia militare del Risorgimento*.

⁵ Antonielli and Levati, *Controllare il territorio*; Berlière and others, *Métiers de police*; Davis, *Conflict and control*; Denys, *Police et sécurité au XVIIIe siècle*; Emsley, *Policing and its context*. For the question of the relationship between the police and national uprisings see Bayley, 'The Police and Political Development in Europe', while for the specific case of Sicily one must refer to Riall, 'Liberal policy and the control of Public Order', and Riall, *Sicily and the Unification of Italy*.

nagement. This will therefore be the meaning of the present article: the presentation of new elements related to Sicilian squads within a historiographical scenery, which is already wide and varied. We shall therefore elaborate on the origins and composition of the squads, later concentrating on the policing activity performed by those in Palermo in 1860, a prime study example due to the role and importance of the city which had soon become Garibaldi's new capital. In other words, in light of mostly unreleased archival documentation and substantial bibliographical research,⁶ we shall attempt to provide a different interpretation of the events and, most of all, of the participants in the police activity in Palermo, so as to understand and evaluate the characteristics of a popular militia activity in a period of vast political change.

II. A QUESTION OF DEFINITIONS, A QUESTION OF BODIES

In first place, one must provide clarifications regarding old and new players on Palermo's political theatre at the time of Garibaldi's arrival – starting with the 'armed mobs, which in Sicily were known as squads'⁷ – defining each one's role. A philological premise is therefore necessary: in the sources one may find the terms *banda*, *squadra*, *squadriglia* and even *guerriglia* ('band', 'squad', 'squadron' and 'guerrilla') to define the same subject.⁸ The definition 'armed band' maintains a generic nature (a mob may as a matter of fact be formed by bandits or highwaymen,⁹ deserters, draft dodgers and fugitives,¹⁰ armed peasants, insurgents, etc.),¹¹ while other definitions tend to refer to a solely military aspect, the last case in particular. In most cases, however, these definitions are associated to popular forces which are mainly rural (and therefore not urban) and which are commanded by charismatic leaders: said leaders were often local persons of importance or barons who were capable of gathering a vast following. The intention of these leading figures was to control the insurrection so as to defend their own status and their position in the region. Finally, the squads could also be led by common delinquents and bandits who – taking advantage of the insurrectional nature of the events and hiding their criminal actions behind the Italian flag – would then pillage the towns of the province. The most striking case, with a tragic ending in October 1860, was the one of the bandit Santo Meli,¹² who had been a squad commander since the arrival of Garibaldi and was charged

⁶ The archival documentation widely mentioned in the following pages is drawn from the State Archives of Palermo and Turin, where extensive research has been made on military and police documents, and in particular the papers of the police headquarters and the prefecture of Palermo, as well as those from the Sicilian military archive, stored in Turin. Furthermore, a number of public and private archival collections have been explored, belonging to Italian patriots of the Risorgimento such as Francesco Crispi, Agostino Depretis, Vincenzo Orsini, Giuseppe Oddo and others, who will punctually be mentioned further into this text.

⁷ La Farina, *Istoria documentata della rivoluzione siciliana*, t. 1, p. 38.

⁸ Fiume, *Le bande armate in Sicilia (1819-1849)*.

⁹ Hobsbawm, *Bandits*.

¹⁰ Lignereux, *La France rébellionnaire*.

¹¹ Pelleriti, 'Fra città e campagne'.

¹² Riall, *Sicily and the Unification of Italy*, p. 93.

with a number of crimes towards persons and property.¹³ Meli was then executed in Palermo after two separate trials; his “exemplary” sentence was firmly petitioned by Garibaldinian highest authorities, and in particular by the General’s right-hand man, Francesco Crispi.¹⁴

In light of the above, one may suggest a possible usage of the term ‘popular’: the squads are ‘popular’ as they are mostly composed of armed peasants. Their forces are therefore drawn from the most disadvantaged social classes. It is harder to ascertain the possibility that the great involvement of subordinate classes may have been due to economic and social reasons,¹⁵ or if this widespread popular participation to the insurrections of 1848 and 1860 was the indication of a far more deeply-rooted political awareness. The bad harvest of 1859 will certainly have taken its toll to a certain extent, as the redistribution of land and the restoration of the public use of commons were still a fundamental objective for Sicilian peasants; Garibaldinian reforms would only partially have gone in the direction wished by the people. We are therefore confronting a social and popular dimension, and a political dimension, which may not be detached if one wishes to fully understand the significance of the events surrounding the Italian unification, when the Sicilian squads reappeared, this time supporting Garibaldi, to support his national project. In 1860, the priority was not to support the island’s unrealisable dream of being autonomous from Naples, but instead to introduce Sicily into a wider, Italian, framework.¹⁶

On account of these considerations, squads represented a double-edged sword for Garibaldi’s new-born government, due to their rural composition and their political and social aspirations, if present. Garibaldinians also had to rely on squads when marching towards Palermo and, most of all, after the city’s liberation. In those crucial moments it was inevitably necessary to entrust them with public order management, similarly to what had occurred in the previous revolution; to paraphrase the renowned expression coined in a completely different context by Parisian prefect Marc Caussidière: to ‘faire de l’ordre avec du désordre’ (‘to work out order through disorder’).¹⁷

In parallel to Garibaldi’s new government’s use of squads, the authorities quickly activated to reconstitute the entire range of Sicilian law enforcement, which had disappeared shortly after Garibaldi’s arrival, starting with the police. The institution of Palermo’s Questura (‘central police station’), the first one in Sicily, had been an immediate consequence of the battle to liberate the city.¹⁸ Its role, and the actual amount of public safety

¹³ Dumas, *Les Garibaldiens*, pp. 137-155.

¹⁴ ASRAM (Archivio Storico Risorgimentale Antonio Mordini, Barga (Lucca)), b. 16, f. Q.

¹⁵ Renda, ‘Garibaldi e la questione contadina’.

¹⁶ De Francesco, ‘Cultura costituzionale e conflitto politico’.

¹⁷ Caussidière, *A ses concitoyens*, p. 5.

¹⁸ La Lumia, *La restaurazione borbonica e la rivoluzione del 1860*, p. 123.

(i. e. police) guards¹⁹ soon became quite notable in Palermo's political theatre,²⁰ managing to compete with other institutions which had the same tasks and were also still in development, such as the city's national guard.²¹ The reconstitution of the latter was originated by multiple impulses: to swell up Garibaldi's exhausted army, to introduce a set of rules similar to that of the Piedmontese kingdom in view of the then-imminent unification, and to protect the island's traditions, which saw the national guard as the 'palladio della libertà' ('defender of freedom').²²

Another key player on the Sicilian scene in general, and Palermo in particular, was of course Garibaldi's army. Basically composed of volunteers from Northern Italy and some Sicilian contingents,²³ the army was a fixed presence in Garibaldi's capital. The 'Red Shirts' would patrol the city's streets at night,²⁴ protect connections with the municipalities in the province, and control the new Sicilian government's centres of power. Naturally, the primary role of Garibaldinian army, as for any other army, did not consist of police duties. With the exception of greater operations of a repressive nature – for example, the well-known case of Bronte²⁵ – Military authorities would generally attempt to delegate police activity to other law enforcement authorities. One of these was the *militi a cavallo* ('horseback soldiers'), a police force assigned to surveillance of the countryside, originating from armed bands of Bourbon times,²⁶ and the *carabinieri*,²⁷ strongly endorsed by both of Garibaldi's pro-dictators, Agostino Depretis and Antonio Mordini.²⁸ This proliferation of units and institutions with duties that were essentially similar was an obvious indication of a fragile situation among the institutions originated from Sicilian revolution: conflicts of jurisdiction and personal clashes were a common occurrence.²⁹ The presence of squads in Palermo, especially in the early weeks of Garibaldi's government, only managed to make the situation even more chaotic, despite the extreme need for order. Garibaldi's provisions aiming to form an efficient army and national guard, and consequently to limit the fragmentation of power into hundreds of different directions, are to be understood in this sense. The situation needed to be brought back to normality, and

¹⁹ ASPa, RSLG-RP (State Archive of Palermo, 'Real Segreteria di Stato presso il Luogotenente Generale – Ripartimento Polizia'), b. 1561, 'Notamento approssimativo della forza addetta alla Questura del Distretto di Palermo', 8 June 1860.

²⁰ Di Benedetto, *Conto della gestione tenuta dalla questura di Palermo*.

²¹ Dupuy, *La Garde nationale. 1789-1872*; Francia, *Le baionette intelligenti*.

²² *Giornale Ufficiale di Sicilia*, 25 November 1860.

²³ Scaramuzza, 'Il volontarismo garibaldino'.

²⁴ MRM (Museum of the Risorgimento, Milano), 'Archivio Guastalla', c. 2, b. 14, letter from Palermo square control to the 3rd Brigade control, 24 June 1860.

²⁵ Radice, 'Nino Bixio a Bronte'; Riall, 'Nelson versus Bronte'; Riall, *La rivolta. Bronte 1860*.

²⁶ Fiume, *Le bande armate in Sicilia (1819-1849)*.

²⁷ Carbone, *Gli ufficiali dei Carabinieri reali*; Ibba, 'Il generale Giovanni Battista Serpi nel Risorgimento'. On this specific point, see also Gramsci, *Quaderni dal carcere*, pp. 242-243.

²⁸ Librino, 'Agostino Depretis prodittatore in Sicilia'; Maraldi, 'La rivoluzione siciliana del 1860'.

²⁹ ASTo, AMS (State Archive of Turin, 'Archivio Militare di Sicilia'), m. 4, f. 1, c. 6 and ASTo, AMS, m. 22, f. 1, sf. 2, c. 47.

a draft of contingents from the island, to be trained and equipped over a short period of time, appeared to be the solution most favoured by the authorities.

III. POPULAR MILITIA AND REVOLUTIONARY WAR

Another relevant point to be made before continuing with the interpretation of the events that followed the liberation of Palermo concerns the theoretical and democratic roots of the draft of Sicilian insurgents in the spring of 1860. Not long after the expedition of the Thousand, Garibaldi found himself addressing over 20,000 perfectly trained and equipped Bourbon soldiers. Therefore, the original unit of red-shirted volunteers needed to be reinforced with a proportionate introduction of local contingents so as to approach the confrontation with the bulk of the Bourbon troops in more favourable conditions. Despite the local population's reluctance,³⁰ not being accustomed to support war efforts in ways other than large-scale taxation, Garibaldi's government introduced military draft to the island. The experiment did not encounter the expected success and, lacking alternatives, Garibaldi had to make virtue of necessity and take advantage of the disorganized enthusiasm of insurgent peasants.

The Sicilian draft provision planned by the General was planted on a democratic, decades-old reflection on military matters.³¹ Ever since the 1830s, Piedmontese patriot Carlo Bianco, Count of Saint Jorioz, had theorized the use of popular forces in war intended as a guerrilla movement against reactionary powers,³² such as Austria, which were instead equipped with large regular armies.³³ Popular forces could therefore reveal themselves to be a fundamental resource not just for the achievement of insurrectional projects conceived within Mazzini's partito d'Azione ('Action Party'),³⁴ but also for Garibaldi's men who drew widely from the volunteer element to support the project of unification.³⁵ In 1853 even Giuseppe Mazzini, the champion of Italian unity, had managed to reclaim the theories of Count Bianco of Saint-Jorioz in a short publication, which was nowhere near the analytic detail and scope of the Piedmontese patriot.³⁶ According to Mazzini, a revolutionary direction of war had a double advantage: on the one hand, it made the war effort popular (being supported by the armed population, who shared the objectives and ideals with passion), on the other it made war 'moral', de facto transforming 'opinion into national enthusiasm'.³⁷ In his opinion, however, the risk of anarchy spreading among popular ranks needed to be avoided at all costs. Said pressure could have been generated due

³⁰ Pezzino, *Il Paradiso abitato dai diavoli*.

³¹ Del Negro, 'Garibaldi tra esercito regio e nazione armata', pp. 253-310.

³² Della Peruta, *Democratici premazziniani, mazziniani e dissidenti*, pp. 39-75; Della Peruta, 'Le teorie militari della democrazia risorgimentale', pp. 61-82.

³³ Bianco di Saint Jorioz, *Della guerra nazionale d'insurrezione*.

³⁴ Frétigné, *Giuseppe Mazzini*, pp. 110-112.

³⁵ Alberton, 'Finché Venezia salva non sia'; Cecchinato, *Camicie rosse*; Cecchinato, 'Il Regno delle camicie rosse'; Isastia, 'La guerra dei volontari'; Molfese, 'Lo Scioglimento dell'esercito meridionale garibaldino'; Spagnolo, *Il volontarismo democratico*; Trevelyan, *Garibaldi and the making of Italy*.

³⁶ Sarti, *Mazzini*, p. 62.

³⁷ Mazzini, *Della guerra d'insurrezione*, p. 5.

to lack of proper control from democratic cadres upon drafting armed mobs. This would have had vast political and social repercussions, practically estranging the popular classes, which should have been the largest contingent of the new army, from the thinking class. This fear was also shared by Francesco Crispi who, already in 1855, was imagining the possibility of a new Sicilian insurrection and, knowing the actual situation on the island well, was aware of the need to reconstruct the army and police force immediately after the earliest successes, so as to maintain a firm hold on the country, unlike what had happened in 1848.³⁸

In the squads of 1860 one may therefore see a concrete application (and the limits) of these signature theories of the radical Italian left, which saw the problem as mainly consisting of the composition of these armed mobs, tied to their leaders by relationships of loyalty which would sometimes prefigure typical relationships of patronage, perhaps anticipating mafia relationships.³⁹ Naturally, this question was posed all the more after the liberation of Palermo, when squads gradually lost their military role and acquired a new faculty as a police force, as after all had already happened during the previous revolution.⁴⁰

IV. THE 1848 PRECEDENT

Ever since the unsuccessful revolution of 1848-49, squads had represented the primary resource for the Sicilian population to confront Bourbon military and police forces.⁴¹ In January 1848, the first revolt in Europe to overthrow a reigning dynasty had begun in Palermo, close to Fieravecchia, in the middle of the city centre.⁴² Subsequently, as described by Giuseppe Farina, "Small armed mobs started to form in various points of the town, and where there was no superior command, leadership went to anyone with the audacity of action: those with weapons would follow his example more than his commands; they

³⁸ In 1855 Crispi wrote the following, from London, to Nicola Fabrizi, a patriot from Modena who at the time was in Malta: 'Pippo [Mazzini] and I have engaged in lengthy reflection regarding the Italian south. Instructions to be sent should be few and precise. Besides a proclamation which, upon occurring, should not obstruct the triumph of the great idea of a united nation, you must insinuate that leaders aim to three points: first, finding money in legal manners, whilst remaining revolutionary; second, organising the country and the armed forces hand in hand as the insurrection expands; Third, to organize public safety as much as possible so as to avoid thefts, which would turn the great party of landowners against our cause.' (Crispi, *Lettere dall'esilio* (1850-1860), pp. 101-102, the original can be found in MCRR (Museo Centrale del Risorgimento, Rome), b. 656, fasc. 30).

³⁹ Pezzino, 'La tradizione rivoluzionaria siciliana'.

⁴⁰ Fiume, *La crisi sociale del 1848 in Sicilia*.

⁴¹ Cfr. Pezzino, *Il Paradiso abitato dai diavoli*, p. 22. On the actions of squads during the upheavals, see also the writings of Calvi, 1851. The squads had in fact revealed themselves to be excellent for urban clashes, but much less, due to obvious limitations of discipline, preparation, and weaponry, in the open field. Calvi, who had been a minister during the 1848 revolution, writes: 'Most of the people who formed the squads were worth very little in a conflict with true dangers: being used to fight in closed areas, they could not avoid giving bad performances when forced to fight without the protection of a shelter' (*Ibid.*, p. 323).

⁴² Rapport, 1848.

had no rules, no order, no designs".⁴³ Simply put, few citizens armed in a makeshift manner had attacked police posts (slaughtering the despised birri, for example in the assault to the Prefecture) and then the barracks, taking the authorities by surprise and seizing the weapons needed to continue the insurrection. However, there had already been warning signs for the insurrection.⁴⁴ The first squads of peasants had appeared shortly thereafter, arriving from the nearby countryside. These were mainly formed by farmers armed with a few shotguns and many hand weapons: knives, pikes, and other tools related to country life.⁴⁵

On 20 January 1848 the organisation of bands began. What had begun as a city revolt soon showed all the characteristics of a revolution, covering the entire island.⁴⁶ As would also have happened in 1860, local committees everywhere were arming squads with equipment so they could join the insurrection and at least in part attempt to rule over it, while in larger cities, such as Palermo, a city national guard would form just to protect order and properties, thus attracting severe criticism from the more progressive elements of the island's society, who saw the new institutions as a restraint to the legitimate social requests of most of the population:

*The institution of the national guard, essential in times of reform to block inclinations of absolute control, reassure the citizens, maintain public order, and protect the concessions which have been obtained, is an obstacle and a hindrance during revolutionary movements [...]. [In 1848] the national guard was therefore only originated as auxiliary units for the squads protecting public order; this however was only the appearance, a justification: it had actually been created by the eternal suspicion that those who own have towards those who do not.*⁴⁷

Leaving behind the classist interpretation given by La Farina to the institution of the National Guard, he had correctly understood a point which was crucial to the results of the Sicilian Revolution: the insurrection had left traditional channels and was acquiring a popular characterisation. The division between the democratic and the aristocratic, traditionalist, elements would have been one of the causes for the 1848 revolution's failure.

In those particularly tense circumstances, squad activity had shown to be important in relation to controlling the city of Palermo, despite conflicts with the central institutions and the aristocratic and bourgeoisie classes, which were sometimes implied and

⁴³ La Farina, *Istoria documentata della rivoluzione siciliana*, t. 1, p. 29.

⁴⁴ Cfr. Romeo, *Il Risorgimento in Sicilia*, pp. 256-316.

⁴⁵ Giuseppe La Farina, a protagonist and witness of these events, writes: 'Help from the countryside and from nearby municipalities started to arrive during the night: the first were sixty peasants from Villabate, then others from Misilmeri, from Bagheria, from other places: they were received with applause, embraces, kisses; and so by the morning of the 13th one could count about 300 men armed with rifles, and just as many with scythes, bill hooks, knives, and those steel instruments which popular enthusiasm makes into weapons' (La Farina, *Istoria documentata della rivoluzione siciliana*, vol. 1, p. 31).

⁴⁶ *Ibid.*, p. 56.

⁴⁷ La Farina, *Istoria documentata della rivoluzione siciliana*, t. 2, pp. 110-112.

other times quite evident. As a matter of fact, cautions Paolo Pezzino, the 1848 Sicilian government's illusion to 'maintain order with the squads' is only momentary,⁴⁸ specifically due to their composition: 'Rustic and rough men, accustomed to all sorts of danger, of uncultured morality, armed, within a society with no repressive public force, soon realized that all was allowed to them,' as noted by an observer of the Sicilian situation of the time.⁴⁹ The result was therefore a

*situation of institutional vacuum where a popular and vulgar armed force finds itself in a position of power, contrasted not by governmental institutions, despite protecting "classist" interests while nonetheless being an expression of power that is considered to be legitimate, but instead by other armed forces, also characterized by an organized private use of violence.*⁵⁰

This was therefore a volcanic situation, changing continuously and constantly. In 1848-49, Sicilians improvised themselves as soldiers with a certain success until, when the international political situation changed, the Bourbons managed to establish a strong contingent that was sent by sea to recover control of the island, so the Sicilian political class and administration, already weak due to internal conflicts, collapsed before the Neapolitan menace, generating a flow of migration towards all of Europe, composed of the elites who had jeopardized their position due to the revolution.⁵¹

Peasant uprisings had also periodically occurred on the island after the restoration,⁵² driven by individuals such as baron Francesco Bentivegna.⁵³ In these cases, the role of rural populations had once again turned out to be fundamental. This would become all the more realistic in 1860 when, in reaction to the failure of the Gancia uprising in Palermo, the resistance remained active in the countryside around the city thus making it difficult for the authorities to subdue the reluctant populations of the Sicilian inlands. Relying on confident knowledge of the areas, which were often irregular woodlands – as is obvious still today to anyone who observes the so-called Conca d'oro ('golden basin') which surrounds the Sicilian capital – and consequentially provided with great movement capability, the squads were capable of resisting to the attacks of the military factions sent against them by the Neapolitan authorities. They were not however able to make a move on the city, as it was firmly controlled by Neapolitan soldiers.

⁴⁸ Pezzino, 'La tradizione rivoluzionaria siciliana', p. 52.

⁴⁹ Calvi, *Memorie storiche e critiche della rivoluzione siciliana*, p. 211.

⁵⁰ Pezzino, 'La tradizione rivoluzionaria siciliana', p. 57.

⁵¹ Recent studies on Italian exiles of the Unification movement are by Bistarelli, *Gli esuli del Risorgimento* and Isabella, *Risorgimento in esilio*. For further information on the case of the Mediterranean, see Isabella and Zanou, *Mediterranean Diasporas*. On specific relation to the case of Sicily, see instead Ciampi, 'Gli esuli moderati siciliani alla vigilia dell'annessione dell'isola'.

⁵² For the question of the peasants' revolt in 1860 see Mack Smith, 'The peasants' revolt of Sicily in 1860', pp. 201-240.

⁵³ Sansone, *Cospirazioni e rivolte di Francesco Bentivegna and Spiridione*, *Storia della rivolta del 1856 in Sicilia*.

V. PALERMO IN THE SUMMER OF 1860

In 1860, the ancient capital of the kingdom of Sicily was a city with about two hundred thousand inhabitants, enclosed by a circle of walls interrupted by about fifteen doorways. It was through one of the latter that Garibaldi entered Palermo on 27 May 1860.⁵⁴ After about a week of combat he took control of the city,⁵⁵ which had been weakened by the damage provoked by Bourbon shellfire, as proven by historical images collected by French photographers Eugène Sevaistre and Gustave Le Gray.⁵⁶

Fundamental for the expansion of the already worn out ranks of the Thousand, after the clash of Calatafimi in particular, squads had a decisive, albeit noisy and disorderly, role in the breach of Palermo. They could therefore be found within the city already on the day after its liberation, counting on hundreds if not thousands of men.⁵⁷ According to what had been written at the time, during operations around the city ‘The squad of Carini, the one of Capaci, the one of cav. Santa Anna, the one of mr. Coppola, the one of Borgetto and finally the one of Oddo were in action’.⁵⁸

On the days that followed their arrival, they seemed to have been spread throughout the urban area, due to needs which were initially military, as long as the clashes with the Bourbons continued, and later mainly deployed in protection of the area, so as to ensure a tangible presence on the territory. In 1848, squads were stationed in eight districts, spread in the residential areas ‘so all points of the city would be protected’.⁵⁹ A similar distribution was repeated in 1860.⁶⁰

⁵⁴ Trevelyan, Garibaldi and the making of Italy.

⁵⁵ Mundy, “Hannibal” at Palermo and Naples.

⁵⁶ <https://fotografieincomune.comune.milano.it/FotografieInComune/ricerca?query=sevaistre>.

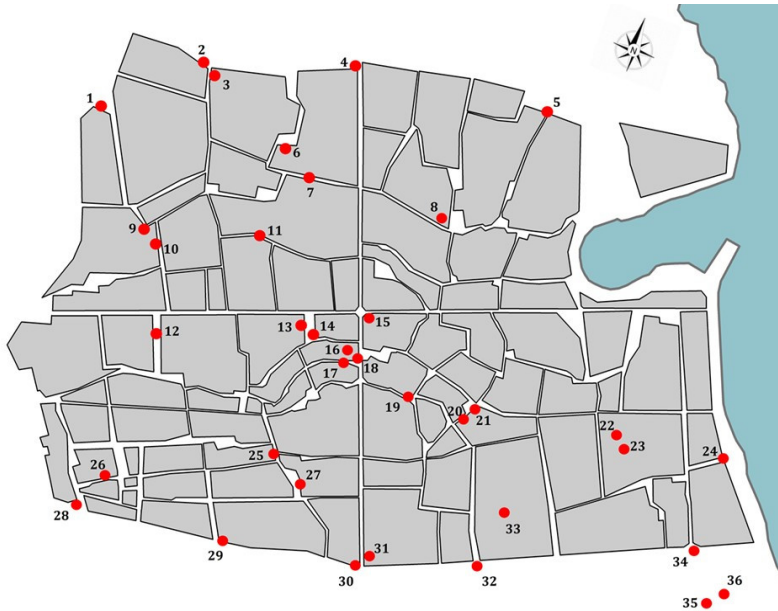
⁵⁷ Numbers vary depending on the sources, but it is conceivable that they were composed of at least 3000 men.

⁵⁸ SSSP (Sicilian Society of Storia Patria, Palermo), ‘Sala Lodi’, b. 10, n. 1080.

⁵⁹ Di Marzo Ferro, *Un periodo di storia siciliana*, p. 84. In 1848, the districts assigned to the squads had been those of the Carmine convent, the Carminello convent, the convent of S. Francis of Assisi, the convent of S. Nicola of Tolentino, the convent of S. Augustine, the Jesuit college, the police station at S. Domenico and the house of Olivella (ibid.). In particular, at the Carminello convent were the squads of Giuseppe Oddo – who will be mentioned several times in the next pages – Francesco Cortegiani, and Tommaso Giordano.

⁶⁰ There were many similarities between 1848 and 1860 in Sicily, especially regarding public safety and its management. To this end, a section of Pasquale Calvi’s study on 1848 can easily convey the similarity between both revolutions: ‘The revolution, as said, had destroyed the government, had dismantled law enforcement, had suspended the magistrates’ authority, had dissolved all the state’s public administrations, as well as those of the communities. Nobody could know how much time, and how many great works, would be needed to replace the moral and civil chaos that follow a revolution of this nature with the normal pace of affairs. – Private and public safety, a precious result of the government’s moral and physical strength, of respect for the magistrates, of the strict and inescapable application of the law, is first of all the primary condition for an uncontested collection of public contribution, and when it is drained by opposing forces, industrial activity decreases, production from properties decrease, as they may only thrive in the shade of security, and consequentially the nation’s revenue dries out, becoming incapable to provide the necessary means for conservation and defence of the State’ (Calvi, *Memorie storiche e critiche della rivoluzione siciliana*, p. 211).

A contribution by Pietro Merenda at the eighteenth social congress of Palermo, held in the Sicilian capital in May 1930, specifically deals with the contingent of Sicilian insurgents and their distribution within the capital on the early days of June 1860.⁶¹ Here Merenda related a large amount of data contained in the writings from 1860 and 1861 by Sicilian general Giuseppe La Masa, a veteran, along with other patriots, of the 1848 uprising; in this sense, the continuity between both revolutions is undeniable. The contribution of Merenda's data, along with other contemporary publications, has allowed to chart a map of the distribution of squads in Palermo in 1860.⁶²



1	Porta di Ossuna	10	Papireto	19	Calderai	28	Porta Montalto
2	Porta Carini	11	Celso	20	Fieravecchia	29	Porta S. Agata
3	Porta Carini	12	Protonotaro	21	Fieravecchia	30	Porta S. Antonino
4	Porta Macqueda	13	Piazza Bologna	22	Gancia	31	Porta S. Antonino
5	Porta San Giorgio	14	Piazza Bologna	23	Gancia	32	Porta Termini
6	Cantone Aragona	15	Cantoni	24	Porta dei Greci	33	Magione
7	S. Agostino	16	Università Q.G.	25	Salita Banditore	34	Porta Reale
8	S. Domenico	17	Università Q.G.	26	Albergaria	35	Orto Botanico
9	Papireto	18	Università Q.G.	27	Carmine	36	Orto Botanico

⁶¹ Merenda, 'Contingente delle squadre siciliane d'insorti'.

⁶² Pecorini Manzoni, Storia della 15a divisione Türr.

The deployment of squads in inhabited areas complied with a firm strategy of territory control, in the vicinities of the doorways just as much as within the bastions. As a matter of fact, they were allocated so as to occupy key nodes of the urban fabric: squares, monasteries, barracks, the town hall (Palazzo Pretorio), the university's areas, the central police headquarters, and so on. As can be easily imagined, this distribution branches out abundantly. Thanks to their presence in the urban setting, squads were able to help the authorities protect public order and, consequentially, the new political order risen with the 'revolution'.

However, this deployment of squads also hides a second motivation. Fearing the return of the same situation as 1848, when many groups had become uncontrollable, Garibaldian authorities had established that squads were to be confined to quarters just like 'regular' troops. After the first chaotic days, Garibaldinian officers had assigned the squads to barracks and monasteries: the situation was returning to normal,⁶³ the Bourbon menace was moving further and further away, and the need to maintain thousands of armed peasants within the capital or in the surrounding woods was no longer on the agenda.

VI. SICILIAN SQUADS AND POLICE

As written by Francesco Renda, participation of peasants in the first weeks of the campaign was extremely important, if not decisive,⁶⁴ save for then losing strength and motivation as the new power, despite being revolutionary, started to form, in good measure protecting the previous social and economic order. Furthermore, the need to guarantee order within the city and the countryside required greater professionalism from the police forces. On the other hand, the peasant squads, which had been at the centre of those early days were defined by their pronounced improvisation. According to 'a note of forces guarding the Carminello district from 12 to 13 June 1860', the squad commanded by Colonel Giuseppe Oddo would have been formed of 150 men, 81 of whom were armed with rifles and 69 with blades.⁶⁵ This evidence could have applied perfectly to any of the squads, which had joined Garibaldi in the late spring of that same year.

From a monetary point of view, as well as for weaponry, the squads of Palermo depended on the State Secretariat for War, at least in theory. Payment, which was sometimes irregular, varied depending on rank but was generally not too high (on average, it was set to 3 or 4 tari – the Sicilian currency – per day for a basic soldier, the equivalent of a day labourer's salary). The main difference from the case of Catania, where squads were also present, is that in Palermo, despite being composed of volunteers from the countryside

⁶³ An exceptional testimony in this regard comes from historian Michele Amari, who disembarked in Palermo on July 1st, 1860 and was soon afterwards destined to be given assignments within Garibaldi's government: 'In Palermo one does not hear of the robberies nor the murders nor the other brutalities of '48' (Amari, *Carteggio*, vol. 2, p. 97) and also: 'one lives in full safety of persons and of possessions: business and commerce are carried out as always, people are circulating on the streets until the late night' (*Ibid.*, p. 98).

⁶⁴ Renda, *Storia della Sicilia dal 1860 al 1970*, pp. 155-163.

⁶⁵ SSSP, 'Sala Lodi', b. 42, n. 2067.

around the city, squads were paid with military funds. In the case of Catania, on the other hand, squads, mainly assigned to the protection of public order, were partly composed of volunteers, who therefore received no financial subsidy, and the rest were individuals defined as 'hired soldiers', who therefore served in return from payment by the local municipal institutions. In the new capital of Garibaldi's dictatorship part of the squads' forces would soon have merged with the police, under direct orders of the Questura.⁶⁶

As mentioned previously, in Palermo public order was guaranteed by various players, mainly by Garibaldi's army, gradually assisted by the 'public safety guards', hurriedly organized by the new government and by the national guard. However, among the papers of colonel Oddo, squad commander, besides a number of documents related to the use of the squads he gathered for the battles in Palermo, we can also find key information related to public safety in the early days of the capital's liberation.

The regulations issued by the colonel to control the discipline of his men closely remind of those for military districts but, reading between the lines, besides the most common rules in matter of cleaning and of orders of service, appeals, and reviews, one may also find some references to the role that squads might also have taken in an urban context. The eighth and final article in Oddo's regulations, redacted several times, says in its second comma that 'when the National Guard will require reinforcements of men, in this case the Leaders of the *centuria* [i. e. a sub-division of the squad] may relocate as many men as are requested by aforementioned Unit'.⁶⁷ The possibility of the squads' intervention in matters of public order, which then punctually happened between the 19 and 20 June, for that matter without being called by the national guard, was therefore expected not just as a theoretical possibility. That night a patrol, after hearing loud noises coming from a house at half past four in the morning, decided to intervene after distinctly hearing screams of 'thieves, thieves' coming from the Cassero, and these screams came specifically from the building of S. Margherita, and due to this problem – wrote the patrol leader in his report – I hurried to go there, along with my squad, and upon arrival there [...] and having found a person disturbing the De Stefano family, who lived in said house, I promptly took him in, along with two women who live on the top floor'. Those arrested, the attacker and two women, very probably two prostitutes, would then have been entrusted to the national guard, which had also arrived in the meantime. Therefore, although the duty of Palermo's squads was not to perform police activity in a strict sense, they were also allowed to and were even required to intervene when offences were being committed, or if they were called to intervene. It was therefore not infrequent that certain patrols drawn from the squads left the barracks along with Garibaldi's red-shirted volunteers to inspect the city streets, especially by night.

⁶⁶ Di Benedetto, *Conto della gestione tenuta dalla questura di Palermo*. In the first weeks, large sums of money were granted to the Questura by Garibaldi's military superintendence to pay the salaries of soldiers and of squads controlled by police authority. Afterwards, the entire police division came under the orders of the Secretary of Internal Affairs.

⁶⁷ SSSP, 'Sala Lodi', b. 42, n. 2040.

However, it was mainly outside urban areas, in the rural zones closest to the city, that squads could have an important role, be it positive or negative. For example, around mid-June 1860, in Monreale, few kilometres away from Palermo, the criminal actions of an armed band brought to the intervention of the authorities, who in turn sent a squad, led by Giovanni Corrao, a high officer among those closest to Garibaldi, to attempt to solve the situation. It is interesting to note that in that occasion, along with Corrao, one of the city's commissioners, Salvatore Cappello, also left from Palermo. The message sent to the capital's Questura by the leaders of the Ministry of War says the following:

It is known to us that in Monreale are certain unruly individuals who, as leaders of bands, instigate internal discordance, causing foul behaviour from the people and thus breaching public peace, which is so important to our Government, especially when it is lacking.⁶⁸

The operation was a success and Corrao's squad stayed in the city some days longer to fully restore public order. The case of Monreale in June 1860 is of particular interest as the situation that had brought to the decisive action of Garibaldinian authorities had developed due to an exceedingly premature disbandment of the local country squad, due to the excessive burden its support had had on the town's expenses.⁶⁹

The presence of squads in the countryside could therefore have been the cause of actual problems of public order, due to their composition, their indiscipline, and their actions, which were sometimes openly criminal.⁷⁰ Historiography is well aware of this perspective. As had already happened in 1848, 'discipline, which had always been little in the squads,'⁷¹ also proved to be a problem of some relevance in 1860. To this we must add an inherent tendency to unlawfulness from some leaders, which could in certain cases result in prevarication and brutality towards specific individuals or entire communities.⁷²

For example, in those troubled days it was also not uncommon in coastal areas very close to the capital for some squads to bring about unorthodox, if not openly criminal, behaviour. Vincenzo Orsini, secretary of War, wrote the following to one of his subordinates, Baron Bentivegna:

The secretary of State for Internal Affairs has informed me of the deep grievances forwarded by the Pretore [Mayor], as the forces assigned to Acqua dei Corsari had blocked the transport of large amounts of bread towards Pa-

⁶⁸ ASPa, RSLG-RP, b. 1560, c. 506, La Porta to S. Cappello, June 1860.

⁶⁹ ASPa, RSLG-RP, b. 1560, c. 572.

⁷⁰ ASTo, AMS, m. 12, f. 5, c. 199.

⁷¹ La Farina, *Istoria documentata della rivoluzione siciliana*, vol. 2, p. 7.

⁷² In this regard, an event which occurred in late August of 1860 is worth mentioning, when a battalion of Palermo's national guard, led by colonel Amato Poulet, had to travel to Capaci to overcome a squad which had de facto become the ruler of that entire municipality, and the population had become its prisoner: 'That municipality's destiny had been handed to wrongdoers who allowed themselves any abuse, any brutality, any infliction, any misdeed. The inhabitants were subject to the strength of these men from the worst class of society, who were keeping the town in complete disarray so as not to be hindered in their own intentions. Furthermore, these men imposed a wheat tax and obstructed the formation of a National Guard, "element of order and of safety"' (ASTo, AMS, m. 1, f. 2, sf. 7, cc. 93-96).

*lermo. As I am shocked by how forces assigned to maintain good order allow themselves to act against their own duties, I encourage you to express my personal [...] resentment to the leader of said forces, hoping that these inconveniences no longer occur from now on, to avoid the implementation of severe measures.*⁷³

In other words, a squad assigned to protect a portion of territory very close to the dictatorship's capital had exceeded their limitations and the government had pronounced itself ready to intervene. Episodes such as these could only undermine trust in Garibaldi's government's trust towards squads, a trust which was already damaged. In June 1860, once their positions in Palermo had been ensured, the quickest solution to come before the executive power was therefore to disband the squads, also considering the experiences from 1848.⁷⁴ The dismantlement was gradual and lasted several weeks. In fact, while on the one hand the disbanding of the squads responded to a logic of strict maintenance of public order, on the other there was the problem of managing the flow of men, in the hundreds if not thousands and often armed, who were dispersing out from the city and into the surrounding countryside, sometimes causing trouble.

VII. CONCLUSION. THE DISBANDING OF THE SQUADS

To achieve a balanced judgement of Sicilian squads and their actions, one must highlight the fact that due to their composition and indiscipline they would often establish themselves as disturbing agents rather than as guardians of public order. Over a short period of time, this consideration brought to the discontinuation of the squads; their place would have been taken by the army and the national guard, which Crispi was attempting to assemble. On 25 May 1860, in a letter to colonel Vincenzo Giordano Orsini, soon to be the Secretary of War, the Sicilian statesman declared: 'Please, ensure that you organize the troops, so that we may free ourselves of the squads. You have all the power and the means.'⁷⁵

Now free from Bourbon domination, what Sicily increasingly required was order; in first place, to ensure the stability of its financial and social structures, as well as of its elite class,⁷⁶ and then to allow Garibaldi and his army to travel beyond the strait of Messina and accomplish the project of Italian unity. An updated and efficient management of public order was also necessary to provide Europe with a reassuring image of Garibaldi's government, which in the continent's chancelleries was prematurely being classified as one of many left-wing radicalisms. Restructuring the national guard and organising the police force would have been a response to these views.

⁷³ ASTo, AMS, m. 12, f. 5, c. 199, draft letter of V. Orsini to F. Bentivegna, 16 June 1860.

⁷⁴ *Giornale Ufficiale di Sicilia*, 15 June 1860 and La Masa, 1861, p. 173.

⁷⁵ Biblioteca Ambrosiana Milano, b. Y20 inf., n. 14.

⁷⁶ Benigno and Torrisi, *Elites e potere in Sicilia dal Medioevo ad oggi*.

From a typically liberal point of view, the police force represented an instrument that was required not just to control the territory, but also as an instrument that would maintain discipline of civil life, of the community, and more in general of the entire country. Therefore, in view of the Italian unification, the undisciplined enthusiasm of the squads needed to be substituted with the new political order initiated by the 'Sicilian revolution'; in other words, a popular police force had to be replaced by a professional one. The composition of the squadre and their revolutionary past, and present, caused their role to be limited in time and in space, until their gradual distancing from the capital. The Government's decision would have finally led to the overcoming of the impasse of 1848 and, on the other hand, would have begun the process of standardisation of the Sicilian government's institutions, and notably their police forces, to those of the kingdom of Sardinia in view of the unification, thus providing further drive to the quick political and institutional transition between a 'before' and an 'after': from a fragmented and divided Italy to a unified Italy.

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Cooperation or Confrontation? The interaction between police forces and vigilante groups during the postwar years (1918-1923) in Barcelona

Florian Grafl

I. INTRODUCTION

Gerardo Doval, a well-known criminologist, was sent to Barcelona in March 1919 by the then Spanish Prime Minister Álvaro Figuero y Torres Mendieta, also known as Count Romanones, to take over the police department. On 8 April, shortly after his arrival in the Catalan metropolis, he reported his first impressions in the following letter:

At my arrival, the police faced signs of disintegration, which were caused by complete negligence within the last four years. During that period, several police units formed up both within and outside the authorities, which stood in the way of the official police. The Captaincy General established its own police. They recruited its members from policemen, which had served the German Secret Service before. High-standing officials of the Captaincy General called for Bravo Portillo as person of their absolute trust. This policeman, apart from some positive qualities, is driven by impulsive powers, set free by a twittered, displeased system, which make it impossible for him to guarantee a matter-of-fact, objective investigation. Having been put on the throne of the Captaincy General today, he exploits his impunity to put forward unjustified accusations against citizens who without doubt are innocent. Based on these facts, I have rejected his integration into our police, despite the advocacy by the Captaincy General in that matter.¹

The person mentioned in this letter, Manuel Bravo Portillo, was born in 1878 in Manila on the Philippines, which back then was a Spanish colony. He came to Barcelona in 1909 where at first he joined the official police corps.² For several years, he did service in the fifth district, which also included the Barrio Chino, ('China Town'), the Barcelonian port area where it was said that most of the city's drug traffic and other criminal activities took place.³ At the beginning of the year 1913, he replaced Francisco Martorell as the chief of the so-called 'Special unit to fight anarchism and syndicalism'.⁴ He remained

¹ Cited in: Del Rey, *Proprietarios y patronos*, pp. 489-90. For the political career of Count Romanones see for example: Moreno Luzón, *Romanones, caciquismo y política*.

² Del Rey, *Proprietarios y patronos*, p. 479.

³ García Sanz, *España en la Gran Guerra*, pp. 209-10.

⁴ González Calleja, *El máuser y el sufragio*, pp. 122-123.

inconspicuous until the beginning of 1918, when rumors began to spread that he would cooperate with the German Secret Service. In concrete, he was blamed by the Barcelonian workers' movement to have organized the assassination of José Alberto Barret, a powerful industrialist, who was supposed to produce goods for the Allied forces.⁵ On 9 June, *Solidaridad Obrera* ('Workers' Solidarity'), the mouth pipe of the CNT, the dominant Barcelonian trade union, published documents which were supposed to prove that Bravo Portillo had passed information to the German Secret Service. That information was later used by the German navy to sink the Spanish ship *Mumbru*. As a result, the authorities finally felt obliged to act.⁶ Bravo Portillo was suspended and remained in custody from June to December 1918, when he was admitted to bail.⁷ Later the charges were dropped due to lack of evidence.⁸

Soon afterwards, he offered his services to Milans del Bosch, the Captain General of Catalonia. He became the leader of a small auxiliary police unit which the local press depicted as *Banda Negra* ('Black Gang') and which was established and supported by the *Federación Patronal* ('Employers' Association'), the association of Catalonia's most powerful employers.⁹ The foundation of the group was mainly a result of the lack of trust in the official police forces. Furthermore, del Rey argues that the reason why exactly the *Federación Patronal* acted as the driving force behind the foundation of that unit was that this organization mainly consisted of entrepreneurs from the sectors where the CNT was most active and which so far had been mostly affected by the attacks on the entrepreneurs.¹⁰

II. FIRST POPULAR POLICING ATTEMPTS IN BARCELONA AT THE TURN OF THE CENTURY

Actually, the official Barcelonian police was not only just in a bad shape in the years before Doval's arrival as he argues in his letter, but had already been facing severe problems for decades which made it rather difficult to guarantee law and order in the city. Consequently, the Barcelonian upper class, which had the biggest interest to maintain the status quo in the city felt obliged to establish additional forces to maintain law and order. Their fears had grown considerably in the 1890s, when the city was struck by a series of anarchist bomb attacks. In the forthcoming years, two different types of popular police were established in Barcelona, which will be examined in this paper.

⁵ Del Rey, *Proprietarios y patronos*, p. 480.

⁶ García Sanz, *España en la Gran Guerra*, pp. 316-317.

⁷ Smith, *Anarchism, Revolution and Reaction*, p. 298.

⁸ Del Rey, *Proprietarios y patronos*, p. 484.

⁹ González Calleja, *El máuser y el sufragio*, p. 146, who states that this group was built up on the 9th April 1919, one day after the letter from Doval quoted above.

¹⁰ Del Rey, *Proprietarios y patronos*, p. 496, but the same author admits that only in one document the *Federación Patronal* admits a connection to Bravo Portillo, p. 494.

The first type of popular police resulted from the attempt by the political catalanism at the beginning of the century to establish an additional police which in contrast to the official police should be under the command of the local authorities. The spokesperson of the Catalan nationalists, Enrich Prat de la Riba, justified this measure in an article published in the catalanist daily newspaper *La Veu de Catalunya* ('The Voice of Catalonia') on 27 December 1906 in the following way: 'The Spanish police, as all institutions of the State, nowadays have become useless. A primitive instrument, a disused fossil. Trying to fight terrorism in Barcelona with it is similar to form up with lances and stones against a heavily armed army.'¹¹

Influenced by the worldwide Sherlock-Homes-fever which had arisen from the novels by Arthur Conan Doyle, in July 1907 the 46-year old chief inspector of Scotland Yard, Charles Arrow, was hired. His job was to establish and to direct an independent police unit in Barcelona with the special task to investigate and prevent anarchist bomb attacks. Arrow neither spoke Spanish nor Catalan and his crime fighting methods differed a lot from those of the Spanish police and, as he had to realize step-by-step, could not be applied in Barcelona. Therefore, his commitment was soon doomed to failure.¹²

Besides the establishment of this official special police unit, nearly at the same time a group of police informers was made up, which should use their insider knowledge of the criminal milieu they predominantly stemmed from to gather information about forthcoming bomb attacks in order to prevent them. This gang was commanded by Joan Rull, who had been on demand for fifteen months due to his alleged participation in a bomb attack in September 1904. Since the policemen in Barcelona usually came from other regions of Spain and therefore did not know their operation area so well, the police depended on the assistance of snitches. This practice seemingly was so common during that period that every policeman cooperated with a multiplicity of informers and there were trials in which the police had to side with accused snitches to prevent them from conviction.¹³ Since the postwar years, this had not changed much, and consequently, many snitches who had been uncovered were found dead on the Montjuïc or its surroundings.¹⁴

A similar group had already been established by the then civil governor Ventura Diaz in the year 1847. This group, which mainly consisted of former convicts, murderers, racketeers and professional counterfeiters and conducted numerous crimes, officially was under the command of the head of the police, but its true leader was a criminal.¹⁵ 60 years later, the gang commanded by Joan Rull was not very successful neither. After a new series of bomb attacks had taken place in Barcelona from 24 December 1906 to 8 April 1907, Joan Rull, his brother Hermenegildo and his parents were arrested under the ac-

¹¹ Cited in: González Calleja, *La Cataluña ingobernable*, p. 50.

¹² For a detailed examination of Charles Arrow's engagement in Barcelona consult: Herrerin López, *Anarquía, Dinamita y revolución* and González Calleja, *La Cataluña ingobernable*.

¹³ Herrerin López, *Anarquía, Dinamita y revolución*, pp. 265-266. Those informers that were a valuable source for the police in Barcelona is already stated by Brennan, *The Spanish Labyrinth*, pp. 72-73. Pestaña, *Terrorismo en Barcelona*, p. 80 shows that this fact was already well known to the contemporaries.

¹⁴ Del Rey, *Proprietarios y patronos*, p. 541. Planes, *Els Gàngsters de Barcelona*, p. 15.

¹⁵ Villar, *Historia y leyenda*, p. 64.

cusation that they themselves were responsible for this new series of bomb attacks. After the trial, which took more than one year, Joan Rull was executed on 8 August 1908.¹⁶

Five years after the execution of Joan Rull, the predecessor of Bravo Portillo as chief of the special unit to fight anarchism in Barcelona, Francisco Martorell, was accused by the Republican newspaper *El Progreso* ('The progress'), to have engaged a gang of informers.¹⁷ This gang was established during a strike in the year 1913 and supposedly consisted only of four members, Lluís Mas Terrades, Frederic Roigé Navero, Amadeu Camprubí Soler and Maria Sanz Pau. All of them derived from the criminal milieu and together were involved in numerous criminal activities.¹⁸ Like the examples described above, this gang was not very successful neither. Lluís Mas Terrades was severely wounded on 10 February 1914 in a shoot-out. When trying to take revenge, Mariano Sanz Pau was arrested and imprisoned.¹⁹ Roigé together with Epifani Casas, who, as it seems, was also related to Martorell's gang, was hired by the direction of the factory España Industrial in Sants as strike-breaker and as a result was assassinated on 31 May 1917.²⁰

The bomb attacks and shoot-outs for which the gangs commanded by Martorell and Rull were responsible gave reason for the worker-friendly press to put violent or criminal acts, which one would normally suspect to be committed by militant trade unionists, down to policemen or informers under the service of the state. One striking example, that this practice was still frequent in the postwar years, is the coverage by *España Nueva* ('New Spain') on 11 March 1920 of a bomb attack in Barcelona. Surprisingly, according to the Madrilenian newspaper not the trade unions were responsible, but Francisco Martorell had to be blamed for the attack and the survey concluded with the words: 'Remember Rull!'²¹

III. SOME THEORETICAL REFLECTIONS ON VIGILANTISM

Even though the two forms of popular police in Barcelona described above differed to some extent, they never the less can be described as 'collective vigilantes' according to the definition of the American political scientist David Kowalewski. As 'vigilantism', he classifies activities with the purpose to oppress deviance, i.e. attitudes which in a significant way deviate from the established social norms of a community. But in Kowlewski's opinion, it is not deviance itself, but only its abrupt growth which gives the impression that the authorities are overwhelmed. As a consequence, this lead to the sudden appearance of vigilantism as backlash. These theoretical considerations can well be applied to the Barce-

¹⁶ For a detailed biography of Joan Rull, consult: Dalmau, *El Cas Rull*.

¹⁷ Marinello Bonnefoy, *Sindicalismo y violencia*, p. 315. These accusations later were supported by leading figures of the worker's movement, see for example Pestaña, *Terrorismo en Barcelona*, pp. 81-82.

¹⁸ A detailed description of their criminal records is provided by Marinello Bonnefoy, *Sindicalismo y violencia*, pp. 316-319.

¹⁹ *Ibid.*, p. 318.

²⁰ *Ibid.*, p. 363.

²¹ *España Nueva*, 11 March 1920, p. 1.

lona case which is studied in this paper. As Kowalewski further states, the acceptance of vigilante groups both by the state as well as by the society is rather ambiguous. On the one hand, the authorities support them by providing them with weapons, accommodation and information in order to be able to use violence against deviance without being directly involved. On the other hand, the shared interest of these two actors to curtail deviance can soon cease leading to violent rivalry between vigilantes and ordinary forces as the police. A similar ambiguity seems to prevail regarding the relation between vigilante groups and society. On the one hand, vigilante groups contribute to the containment of deviance. On the other hand, in doing so, they often perpetrate the law which puts them outside the social norms and makes their behavior deviant too.²²

The apparent paradox to form these vigilante groups as for example in the case of Joan Rull and his accomplices with criminals actually makes a lot of sense since both parties profit from this alliance. For the police, the cooperation with criminals is effective because they already know them well and the criminals are already accustomed to use violence and weapons, so they are rather uninhibited in that aspect. By taking part in vigilant activities, the criminals can continue with their antisocial behavior without having to fear prosecution and instead can hope for recognition for their deeds. The main reason why vigilante groups nevertheless rather contribute to the escalation of violence than to its containment, as it will be shown in the case of Barcelona, is that by fighting violence with violence they become a mirror image of the deviant groups themselves. Due to the fact that the protection by the state saves them from persecution and the control of their activities in most cases is rather limited, the application of violence by them to an increasing degree gets out of control and more and more targets randomly selected innocent people as well.²³

Although the first attempts to establish a popular police in Barcelona had been a complete failure, in the postwar years two very different types of popular police played an important role in the violent conflicts in the Catalan metropolis that will be closely examined in this paper. While the already mentioned Banda Negra only existed for about one year, the militia Somatent established itself as a significant additional law enforcement force until the end of the dictatorship of Primo de Rivera in 1929.

IV. THE MILITIA SOMATENT

On 19 August 1921, the local newspaper *El Diluvio* ('The Diluvian') reported a shootout between workers and a group of Somatent, which had taken place on the eve of the day before: 'According to official sources, shortly before 7 pm four workers appeared in the street Horta de la Bomba to encash the union contribution from the workers of the factory of Mr. Blay. According to the official sources, shortly afterwards, at the same place a few members of the Somatent appeared and demanded from those trying to encash the union contribution to abandon the street. One of the unionists fired a shot of his revolver

²² Kowalewski, 'Vigilantismus', pp. 426-428.

²³ *Ibid.*, pp. 431-433.

at the group of Somatent which responded the attack with a series of gunfire that caused panic among the residents and the passer-bys. The 34-year old Hilario Felipe Lazano and the 8-year old girl María Tarín were wounded.²⁴

The Somatent, which are mentioned in the article just quoted, was a kind of vigilante group that can be traced back to medieval times. The expression 'Somatent' derives from the Catalan phrase 'So metent' which can be translated as 'Be on guard'. Their motto was 'Pau, Pau, sempre Pau' which means 'Peace, peace, always peace'. Therefore, we can assume that the idea behind the foundation of the Somatent was to create a kind of civil guard to guarantee law and order. At first, the Somatent was established in the Catalan countryside to protect the people from robbers. Like many Catalan manners and traditions, the Somatent suffered repressions by the Spanish Crown since 1640, the year when a Catalan uprising had been put down. Only in the second half of the 19th century, when – thanks to the growing Catalanism – many Catalan traditions were revived, the Somatent started to regain significance in the rural areas of Catalonia.²⁵

The first time the Somatent were employed in Barcelona on a large scale was the Canadenca strike in 1919. Canadenca was an electric company which produced most of the steam used in Barcelona and therefore, the strike left the city for some weeks in darkness and led to an almost complete standstill. In March 1919, about 8000 Somatent patrolled the streets of Barcelona. They were armed with guns and their recognition feature was a red bracelet.²⁶ Their task was to guard the trams, to control suspicious persons and to force the shops and stores to reopen.²⁷ The members of the Somatent in Barcelona at first had been mainly upper class, but later more and more people from the middle class joined. Conditions of admissions were the Spanish citizenship, an age of at least 22 years, having lived at least one year in Barcelona and the proof to have a profession or to be a proprietor. Furthermore, it was necessary to be a 'man of recognized morality and noble manners'.²⁸ Every member had to make sure to bring his own gun and only the leaders were allowed to be armed with pistols.²⁹ The Somatent in Barcelona were locally organized in the city district and every *barrio*, the smaller organization unit of the districts, has its own leader.³⁰

Analyzing the cases in which the Somatent were involved in acts of violence from the end of the First World War to the Dictatorship of Primo de Rivera in 1923, one can draw

²⁴ El Diluvio, 19 April 1921, p. 16. Solidaridad Obrera a few years later published a series of articles under the headline 'Chronology of white terror' to reveal the crimes against the working class. In this series, the incident is not depicted as a shoot-out but rather as an ambush by the Somatent, Solidaridad Obrera, 11 August 1923, p. 2. Only a few days later, the same newspaper reported another violent assault, in which a worker was brutally beaten up by two members of the Somatent, Solidaridad Obrera, 15 August 1923, p. 4.

²⁵ González Calleja, Del Rey, La defensa armada, p. 72.

²⁶ Huertas Claveria, Obrers a Catalunya, p. 189, González Calleja, 'El ejército y orden público', p. 82.

²⁷ Smith, Anarchism, Revolution and Reaction, p. 298.

²⁸ González Calleja, Del Rey, La defensa armada, p. 91.

²⁹ Ibid., p. 86.

³⁰ Ibid., p. 83.

the following conclusions: There were no violent incidents between the Somatent and the Guardia Civil ('Civil Guard'), the official police during that period of time. It seems that both organizations were closely working together and there is no evidence for any kind of rivalry. In contrary, the tasks of the Somatent were quite similar to those of the Guardia Civil, so it seems that the Somatent were acting as a kind of auxiliary unit to the official police forces. This is also proven by the fact that as well as ordinary policemen, members of the Somatent often were injured or even killed by the attempt to arrest suspects. On the other hand, it is striking that there were many reports that members of the Somatent by accident wounded or even killed people who they suspected to be robbers.³¹

The appearance of the Somatent in Barcelona in 1919 is comparable to the 'Unions Civiques' in France and the 'Citizen's Guards' in Great Britain, vigilante groups which also were employed for the first time on a larger scale in the big strikes in the postwar years.³² Dirk Schumann, who has studied the German case, states that 'Einwohnerwehren' in Germany also were founded shortly after the First World War and in 1919 had grown to about 400,000 members. Their social profile was quite restrict and they almost exclusively included professions as land owners, teachers and other civil servants, business people while few workers joined this paramilitary group.³³

After the Canadenca strike, the Somatent had another heyday in the summer 1923, when they reappeared regularly in the streets in the summer 1923. The reason was that armed robberies in Barcelona at that time had become frequent and in order to prevent them, the Somatent patrolled the streets.³⁴ After his military coup in September 1923, Miguel Primo de Rivera established vigilante groups similar to the Somatent in all regions of Spain.³⁵ With the fall of the dictator, the influence of the Somatent decreased. Nevertheless, on the eve of the Second Republic, which began in April 1931, the Somatent still had 22,000 members all over Spain.³⁶ But at the beginning of the Second Republic, the Somatent were dissolved and only continued to exist in the rural areas of Catalonia.³⁷ At the end of the Second Republic, there was a vigilante group in Barcelona similar to the Somatent called Acció Ciudadana ('Civil Action'), but it never gained as much popularity as the Somatent.³⁸

³¹ Ealham, *Anarchism and the City*, p. 75, González Calleja, *El máuser y el sufragio*, p. 88.

³² Schumann, *Gewalterfahrungen*, p. 12-13.

³³ Schumann, *Politische Gewalt in der Weimarer Republik*, p. 74.

³⁴ *El Diluvio*, 11 August 1923, S. 8-9. An example of an armed robbery which was frustrated by the Somatent is documented in *El Diluvio*, 21 October 1923, p. 15, *El Noticiero Universal*, 23 August 1923, p. 6 and 22 October 1923, p. 15.

³⁵ The function of the Somatent during the dictatorship of Primo de Rivera is analyzed in Ben-Ami, *El cirujano de hierro*.

³⁶ Blaney, 'Keeping order in republican Spain', p. 40.

³⁷ Rodríguez Cámara, *II República*, p. 43. In the year 1934 *El Diario de Barcelona* ('The Barcelonian Daily') in two articles announced a reintroduction of the Somatent, which as it seems, at the end did not take place (*El Diario de Barcelona*, 17 May 1934, p. 6 and 14 October 1934, S. 13-14).

³⁸ This view is expressed for example in *El Correo Catalán* ('The Catalan Post'), 4 January 1935, p. 1.

V. THE BANDA NEGRA

Manuel Casal Gómez, who was a police inspector in Barcelona in the first decades of the 20th century in Barcelona, later published a book in which he mainly tried to reveal the racketeerings of the Banda Negra.³⁹ The first victim of the gang was presumably Pablo Sabater, the president of the trade union of the dyers which at that time were on strike for higher salaries.⁴⁰ Manuel Casal Gómez described the assassination of Sabater on 17 July 1919 as follows:

Between half past two and three o'clock in the morning, a luxurious, glossy car appeared in the Calle de Mallorca. It stops in front of the beer factory 'Bohemia' and three persons get off, looking like hangmen. One of them, tall and elegantly dressed. [...] shouts: 'We are already there'. He turns to the other persons and commands them imperiously to ring at street number 274 and arrest in due form Pablo Sabater, president of the trade union of the dyers. [...]. The detainee staggers, tortured by the terrible pain which is caused by the handcuffs on his wrists. At the street, the three men take and hustle him like a bale of straw in the interior of the car. With the spotlights turned off, the car heads for the Carretera de Montcada. [...] In the middle of the Carretera de Montcada, close to the Torre Baró, the car stops his racy drive with a full breaking next to the ditch and the three evildoers, who have been inside the car, command the detainee to get out of it, threatening him with his Star-Pistols. [...] 'Don't kill me! I beg you mercy for the sake of your mothers, of your children! Have a heart! Have a heart!' he begs on his knees. But those grim, cruel and satanic men throw him violently in the ditch and all three of them shoot simultaneously at the handcuffed, defenseless unfortunate. [...] The murderers, having accomplished the atrocity, the outrageous, monstrous deed, get in the luxurious, glossy car and, bursting of satisfaction, return into the illuminated city [...].⁴¹

This assassination caused a huge setback for the labor movement in Barcelona, since Sabater was a person of note, which for example is illustrated by the fact that he was described as 'father figure' by Ricardo Sanz who himself later became a labour leader. According to him, it has been mainly Sabater's merit that the dyers had become one of the strongest and best-organized trade unions in Barcelona.⁴² Sabater only had been released

³⁹ After the restructuring of the police in Barcelona in the year 1917, Manuel Casal Gómez had been, as Bravo Portillo, the head of one of the ten police stations in the city (El Correo Catalán, 29 August 1922, p. 3).

⁴⁰ The strike of the dyers in July 1919 is mentioned by Abad de Santallán, Contribución a la historia, p. 241.

⁴¹ Casal Gómez, La 'Banda Negra'. The assassination was also covered extensively in the local press, for example in El Diluvio, 23 July 1919, p. 9; 24 July 1919, p. 9; 25 July 1919, p. 9; 27 July 1919, p. 9; as well El Noticiero Universal, 20 July 1919, p. 3, 31 July 1919, p. 4; 6 August 1919, p. 5.

⁴² Sanz, El sindicalismo español, p. 109. Federica Montseny in her autobiography also remembers Sabater as 'central figure in the labour movement during that period of time' (Montseny, Mis primeros cuarenta años, p. 33).

from prison three weeks before, after he had been absolved of the assassination attempt on the entrepreneur Trinchet.⁴³ Already in February the year before, he had been suspected to be involved in the assassination of the director of a factory and was on demand together with eight other suspects.⁴⁴ For this reason presumably Sabater was on a black list together with six other persons, from whom only José Castillo is known, who was murdered only a few days later than Sabater.⁴⁵ A very similar attempted murder as the one Sabater fell victim to in which the perpetrators masqueraded as policemen had already taken place on 23 April, leaving the secretary of the trade union of building trades, Pedro Masoni, wounded, while the perpetrators were able to escape.⁴⁶

In May 1922, nearly three years after the assassination of Sabater, Luis Fernández was accused but finally released due to lack of evidence. Nevertheless during the trial he admitted that shortly before the deed he had left France, where he already had collaborated with the police as well. When he arrived in Barcelona, he was provided with accommodation by Bravo Portillo and in return was in charge of spying workers, presumably to prevent strikes.⁴⁷ Even though nobody was sentenced for the assassination of Sabater at the end, it is likely that Ángel Pestaña and other authors rightly claim that the gang of Bravo Portillo was responsible for Sabater's death.⁴⁸

In comparison to the already mentioned gangs of Joan Rull and Francisco Martorell, Bravo Portillo's auxiliary police was much bigger and better organized. It was subdivided into three small groups. The task of the members of the first group was to gather information, the second group infiltrated the working class community and the members of the third group acted as agent provocateurs in factories and other working places.⁴⁹ The claim that the Banda Negra also carried out contract killings and in doing so was responsible for several assassination attempts on leading figures of the worker's movement seems exaggerated, since only the assassination of Pablo Sabater can be attributed to this

⁴³ Pestaña, *Terrorismo en Barcelona*, p. 104.

⁴⁴ *El Diluvio*, 22 February 1918, morning edition, p. 7.

⁴⁵ Leon Ignacio, *Los años del pistolismo*, p. 71. The assassination of Castillo is described by Balcells, *Violència social i poder polític*, p. 23.

⁴⁶ The assassination is documented in *España Nueva*, 9 July 1919, p. 2.

⁴⁷ The trial against Fernández García is covered in *El Diluvio*, 26 April 1922, p. 14 and 12 May 1922, p. 27; as well as *El Correo Catalán*, 12 May 1922, p. 1-2. and *La Publicidad* ('The Public'), morning edition, 12 May 1922, p. 3.

⁴⁸ Pestaña, *Lo que aprendí*, p. 81.

⁴⁹ González Calleja, *El máuser y el sufragio*, p. 146. Casal Gómez, *La 'Banda Negra'*, p. 108.

gang.⁵⁰ All members got weapons and a daily payment.⁵¹ If any of them wanted to leave the gang, he was threatened.⁵²

Although many sources claim that the gang consisted of 50 to 60 members, Ángel Pestaña's estimate of 15 to 20 members seems more realistic given the fact that few of their members later became known publicly.⁵³ All sources agree that the head of the part of the gang which was responsible for the violent acts was Antonio Soler, a former convict from Mallorca.⁵⁴ The other members of the gang were recruited from the lower classes and the criminal milieu as well.⁵⁵ Among the members of the gang were also Epifanio Casas and Mariano Sanz, who, as it seems, already had been at the service of Francisco Martorell.⁵⁶

As the members of the gang of Martorell about five years before, the Banda Negra became the target of assassination attempts as well. The leader of the gang, Manuel Bravo Portillo, was shot on 8 September 1919, probably by someone belonging to the action groups of the CNT.⁵⁷ Only twelve days later, Eduardo Ferrer, who also was a supposed member of the Banda Negra and had been involved in the assassination of Pablo Sabater, suffered the same fate.⁵⁸ Especially the murder of Bravo Portillo was warmly welcomed by the Barcelonian working class because they hoped that after his death the Banda Negra would be dissolved.⁵⁹

⁵⁰ The claim that it would have been the task of the Banda Negra to eliminate activists of the labour movement is formulated by Madrid, *Ocho meses*, p. 59 and Pestaña, *Terrorismo en Barcelona*, p. 106. In contrast, del Rey argues that the gang besides the assassinations already mentioned only was responsible for one or two deaths and several injuries until its dissolution in May 1920. But these causalities did not result from assassinations or assassination attempts but rather from shoot-outs between members of the Banda Negra and the action groups of the CNT (Del Rey, *Proprietarios y patronos*, p. 518).

⁵¹ According to Madrid, *Ocho meses*, p. 59 the weapons were provided by a military called Perales on the authority of Bravo Portillo. Concerning the payment, Serrano, *La ciudad de las bombas*, p. 172-173 and Ventura Subirats, 'La verdadera personalidad', p. 114 gave the figure of 50 pesetas, while Madrid, *Ocho meses*, p. 58 and Leon Ignacio, *Los años del pistolero*, p. 66 only gave 15, which nevertheless would have been a much higher salary than an average qualified worker at that time would receive.

⁵² Madrid, *Ocho meses*, p. 64.

⁵³ Pestaña, *Terrorismo en Barcelona*, p. 38. According to Leon Ignacio, *Los años del pistolero*, p. 117, the gang had 70 members.

⁵⁴ Madrid, *Ocho meses*, p. 61, Ventura Subirats, 'La verdadera personalidad', p. 112, Pestaña, *Terrorismo en Barcelona*, p. 106 and Leon Ignacio, *Los años del pistolero*, p. 66.

⁵⁵ Ventura Subirats, 'La verdadera personalidad', p. 112, Leon Ignacio, *Los años del pistolero*, p. 117 and Madrid, *Ocho meses*, p. 58.

⁵⁶ Marinello, *Sindicalismo y violencia*, p. 319.

⁵⁷ The assassination of Bravo Portillo was extensively covered in the local press, for example *La Publicidad*, 3 September 1919, p. 3; *El Diluvio*, 6 September 1919, p. 10-1; 7 September 1919, p. 9; 9 September 1919, p. 7; 12 September 1919, p. 9; as well as *El Noticiero Universal* ('The Universal Correspondent'), 5 September 1919, p. 7; 6 September 1919, p. 5; 19 September 1919, p. 5; 6 September 1919, p. 23.

⁵⁸ The assassination of Ferrer is documented in *La Publicidad*, 18 September 1919, p. 3 and *España Nueva*, 18 September 1919, p. 2. In the same newspaper, two articles on his life were published, *España Nueva*, 23 September 1919, p. 1 and 24 September 1919, p. 2.

⁵⁹ Madrid, *Ocho meses*, p. 60.

Instead, Rudolf Stallmann took over. He had come to Barcelona in September 1918 as a spy in the course of the First World War, pretended to be of aristocratic origin and called himself 'Baron von König'.⁶⁰ After the death of Bravo Portillo, Stallmann got into contact with the Federación Patronal, but the employers' association refused to support him as they had backed Bravo Portillo and the head of the police, Arlegui, on 22 December ordered a house search at Stallmann's place. After having had a conversation, as it seems, both came to terms and the Banda Negra under the lead of Stallmann became a kind of auxiliary police that was allowed to execute searches and to detain syndicalists.⁶¹ This turn seems a bit surprising, since Doval, who was cited at the beginning of this paper, about half a year after his arrival in Barcelona complained in one of his reports that the official police and Stallmann's gang would compete with and hate each other.⁶² Furthermore, Stallmann's gang was supposed to blackmail entrepreneurs. The British writer Gerald Brenan who was one of the first foreign authors who after the Civil War wrote on the history of Spain went further and asserted that the gang even shot entrepreneurs who refused to pay. This, however, is not documented in the sources available.⁶³

Rudolf Stallmann and Antonio Soler barely escaped assassination attempts.⁶⁴ On the 23 April 1920 the Banda Negra was involved in a shoot-out with an action group of the CNT, after which one member of the Banda Negra, Bernardo Armengol, got arrested. In prison, he gave a detailed report on the Banda Negra, which enabled the CNT to hunt down its members.⁶⁵ Only a few days later, close to Ronda de Sant Antoni at a place called 'Peso de la Paja', which was used by the Banda Negra regularly for its meetings, another shoot-out took place. Two members of the gang, Pedro Torrents Capdevila and Mariano Sanz got wounded and an activist of the CNT was shot.⁶⁶

These incidents caused huge protests, which made the Federación Patronal distance itself publicly from the Banda Negra. Therefore, Tomás Benet, the representative of the Federación Patronal in Madrid, on 17 May 1920 wrote a letter to the newspaper *El País* (The Country), which was published two days later. In this letter, he insisted that the employers' organization never had cooperated with Stallmann and would disapprove his measures. One week later Stallmann responded to Benet with a letter which was made official by the Madrilenian newspaper *El Sol* ('The Sun') only on 11 June. In this letter, Stallmann refers to himself as the leader of the *Policia Patronal* ('Police of the employers')

⁶⁰ Casal Gómez, *La 'Banda Negra'* as well as *Del Rey, Proprietarios y patronos*.

⁶¹ *Del Rey, Proprietarios y patronos*, p. 514.

⁶² *Ibid.*, p. 492.

⁶³ Brenan, *The Spanish Labyrinth*, p. 72-73. On contrast, for example Romero Salvadó, "Si vis pacem", p. 180-81 only states that the gang tried to blackmail entrepreneurs.

⁶⁴ The assassination attempt on Stallmann is described by Calderon, *Memorias de un terrorista*, p. 278, while the assassination of Antonio Soler is mentioned by Madrid, *Ocho meses*, p. 71.

⁶⁵ Smith, *Anarchism, Revolution and Reaction*, p. 324.

⁶⁶ A report of an eye-witness was published in *El Sol*, 30 April 1920, p. 1. A detailed description is provided by Madrid, *Ocho meses*, p. 74-76 and Leon Ignacio, *Los años del pistolero*, S. 122-123. Nearly two years later, Restituto Gómez, Alberto Manzano Casabalter and José Berros Sánchez were on trial for their participation in the shoot-out, *El Diluvio*, 16 March 1922, p. 19.

and claimed that the Federación Patronal would have promised him 200,000 pesetas in the case that something would happen to him. Furthermore, he announced in this letter that his group had been dissolved two weeks before on the grounds that he could cooperate any longer with the president of the employers' association Fèlix Graupera, who was said to be hostile to Germans.⁶⁷ At the beginning of June, the Minister of State instructed Salvatierra, the governor of Barcelona who until then had supported Stallmann, to detain him. Stallmann voluntarily turned himself in to the police on 3 June and at the end of the month was expelled from Spain.⁶⁸

After the expulsion of Stallmann the Banda Negra quickly fell apart. Some of its members fled from Barcelona, among them Antonio Soler, who was assassinated on his flight.⁶⁹ Only two gang members who remained in Barcelona were sentenced for their deeds.⁷⁰ Other members of the gang were shot. Pedro Torrens, who had been wounded in the shoot-out at the end of April, was killed only a couple of weeks later.⁷¹ Mariano Sans, Julio Laporta and Ernesto Queralt, all of them supposed members of the Banda Negra, were assassinated as well and on 19 May 1923, Bernardo Armengol, the last remaining member of the Banda Negra, suffered the same faith.⁷²

In summer 1922 some of the local Barcelonian newspapers reported that several industrialists would have restarted to support a gang similar to the Banda Negra, in which Pere Màrtir Homs would have a leading position.⁷³ Homs was a lawyer who in the past had defended activists of the CNT at court but later, as it seems, had switched sides.⁷⁴ The gang was made responsible for having murdered the moderate labor leader Salvador Seguí.⁷⁵ Homs was supposed to have actively taken part in some of the assassinations of this gang and later he also became the target of an assassination attempt himself.⁷⁶ About ten years later, in the time of the Second Spanish Republic, the head of the police in Barcelona, Miguel Badia, tried to establish a similar auxiliary police as the Banda Negra, but his attempt broke down due to the personal intervention of civil governor Lluís Companys, who was afraid that this measure would initiate a new wave of pistoleroismo.

⁶⁷ Del Rey, *Proprietarios y patronos*, p. 517. The correspondence between Benet and Stallmann is documented in *El Fructador* 19 June 1920.

⁶⁸ Pradas Baena, *L'Anarquisme i les Il·lustrades*, p. 143.

⁶⁹ Del Rey, *Proprietarios y patronos*, p. 518. Both *España Nueva*, 28 March 1920, p. 3 and Casal Gómez, *La 'Banda Negra'*, p. 153, assume that several members of the gang fled to other countries. The assassination of Soler is reported in *El Correo Catalán*, 21 July 1920, p. 3. Leon Ignacio, *Años*, p. 126-127 states that there were also other reports which claimed that Soler would have survived his flight.

⁷⁰ Leon Ignacio, *Los años del pistoleroismo*, p. 126-127.

⁷¹ *Ibid.*, p. 125. The trial is documented in *El Noticiero Universal*, 3 April 1922, p. 9.

⁷² Leon Ignacio, *Los años del pistoleroismo*, p. 126-127, p. 135, p. 142, p. 169 and p. 282.

⁷³ Termes, *Historia del anarquismo*, p. 326. According to Madrid, *Ocho meses*, p. 120, Homs not only planned the assassination of workers but armed robberies as well.

⁷⁴ García Oliver, *El ecos de los pasos*, p. 72.

⁷⁵ Smith, *Anarchism, Revolution and Reaction*, p. 347.

⁷⁶ An assassination attempt, in which Homs was supposed to be involved, is reported by *El Noticiero Universal*, 26 April 1923, p. 14 and 27 April 1923, p. 7. The assassination attempt on Homs, in which one policeman was killed, is documented in *El Noticiero Universal*, 4 June 1923, p. 12.

VI. CONCLUSION

Summing up, one may conclude that the popular and auxiliary polices which acted in Barcelona in the postwar years very well correlate with the theoretical considerations concerning 'collective vigilantes' by the American political scientist David Kowalewski. The militia Somatent as well as the Banda Negra were established to support the police, who obviously was not in the condition to guarantee law and order in such a conflict-laden city as Barcelona during that time. But both the Somatent as well as the Banda Negra rather contributed to the escalation of violence, confirming the thesis of Kowalewski that vigilantes often abscond from the control of the authorities and as a consequence use violent measures in an inappropriate way. While the Somatent during the strike of Canadencia and the dictatorship of Primo de Rivera to some extent helped to maintain law and order, the Banda Negra, especially after the assassination of their first leader Manuel Bravo Portillo, more and more became an obscure force which was not manageable by the authorities anymore. This development to some extent only was consistent, given the fact that while the Somatent mainly consisted of middle-aged men from Barcelonian middle and upper class who were eager to maintain the status quo in the city, the members of the Banda Negra mainly were recruited from the criminal milieu. As a consequence, the Banda Negra more and more became similar to the forces it was build up to fight against. In general, it cannot be denied that all attempts of popular policing in Barcelona from the turn of the 19th to the 20th century until the beginning of the Civil War were a complete failure which only sharpened the conflicts in the city rather than calming them down.

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Police authority and popular behaviours (Lisbon, c. 1867-1910)

Maria João Vaz

I. INTRODUCTION

The founding of the modern state implied enacting legislation designed to ensure the hegemony of state power throughout the entire extent of both the territory and the population. In seeking to instil compliance with the law and penalise any infractions, the state implemented mechanisms able to achieve such objectives. Correspondingly, in the Portuguese society of the second half of the 19th century, the establishing of police forces represented a central factor within the framework of a more global dynamic striving to build and strengthen formal mechanisms for social control and the imposition of state power. Henceforth, these police forces would play an important role in the development of the state and the domination and control that it wielded and, over the course of time, gradually substituted by other forms of policing, including measures involving popular participation within the scope of ensuring public law and order prevailed.

The organisation of police forces and their development in the 19th century reflects an issue that has already attracted substantial interest from historiography, with varied analytical approaches and with occasionally divergent interpretations. Some authors perceive in the launching of these police forces a response to problems raised by increasing levels of criminality, a mechanism for combating insecurity and disorder that played an important role in the emergence of a consensual society. In turn, other authors attribute the founding of police forces to the need of the elites in power for a tool deployed to maintain their dominant positions, controlling the social order, disciplining the new industrial working class, particularly in urban contexts.¹

Indeed, Portugal, in the second half of the 19th century, accompanying an international trend, the importance of establishing modern police forces became affirmed with renewed strength and urgency. The Legal Charter dated 2 July 1867 stipulating the founding of the *Polícia Civil de Lisboa* (Lisbon Civil Police), determined the setting up of a police force for Lisbon, the kingdom's capital. The force would answer to the district civil governor, the entity representing the central political order to organs of local power. This would be denominated the Civil Police in order to ensure a clear differentiation with the already existing militarised police forces and would have as its core objective the prevention of crime and guaranteeing security, order and public stability.²

¹ Emsley, Policing and its context. Taylor, Crime, policing and punishment. Gonçalves, Civilizing the police(man).

² The same law establishes the creation of an identical police force for the city of Porto, the second largest Portuguese city.

This was already a hierarchically and bureaucratically organised police force, designed above all for urban contexts, with its police guarding and patrolling public spaces, unarmed but in uniform, a measure considered as dissuading criminal practices³. This police force thus joined the other police forces that were already present in Lisbon and with compliance of its objectives requiring proximate and daily interactions with the population that lived and worked in the city.

In this article, we seek to analyse the way in which a significant proportion of the Lisbon population welcomed and interrelated with this new police force that began public patrols in 1867. This was a relationship interspersed with challenges and confrontations with the police force encountering major obstacles to establishing its own recognition and authority.

II. THE LISBON CIVIL POLICE

The need to set up a civil police force in the main cities of Portugal dates back to the first liberal experience (1820-1823). In 1821, parliament received a public security plan that foresaw the launching of a civil police force with the core function of preventing criminality. This was a constantly affirmed failure but that nevertheless took time to overcome. This demand grew in strength in the wake of 1834 with the establishing of an order in Portugal that proclaimed liberalism and the subsequent return to the country of many of the political exiles. Some had experienced, to a greater or lesser extent, lengthy periods of exile in France or Great Britain, where they came into contact with the policing systems in effect there.⁴ In particular, those who had fled to Britain would have experienced the early years of the Metropolitan Police, founded in London in 1829. Within a transnational circulation of ideas and models, this was the type of police organisation that received majority backing in Portugal and thus came to be adopted.

The context of serious political violence and social conflict ongoing in Portugal through to 1850, ensured delays to its founding. At the beginning of the second half of 19th century, in 1855, the Portuguese parliament debated the non-existence of a civil police force, designed to prevent crime, but justified as stemming from the violent behaviours of the population. Following the proposal to establish an unarmed police force in Lisbon, similar to the Metropolitan Police in London, one member of the parliament responded that he considered such a measure inopportune, explaining this as due to 'the diversity in the customs and character of the two peoples, the British and the Portuguese'. Such diversity, he maintained, would hinder the affirmation of a civil police force in Lisbon from being able to act without the assistance of a military force: 'I see that our people do not yet re-

³ Later, at the end of the 19th century, it will be considered an inadequate measure for the detection of crime.

⁴ In Portugal, after the first victory of Liberalism (1820, there were periods of return to Absolutism: 1823 to 1826; 1828 to 1832). From 1832 to 1834, there was a civil war that opposed liberals to absolutist and ended with the victory of the Liberals. During these periods, several liberal politicians lived in exile, in France and in England. After 1834 they occupied relevant government functions.

spect, disgracefully, anything other than an armed soldier, and I do not know whether they would respect any such man if not duly armed'.⁵

While implementation came at a later date in comparison with other European cities, there were in the meanwhile repeated affirmations of the need to set up police forces, purpose designed for the prevention of crime, in the main Portuguese cities that would subsequently be expanded to the rest of the country. The justification presented invariably revolved around having to combat criminality in Lisbon, perceived as constantly rising, as a means of modernising the city through endowing it with professionals primarily dedicated to ensuring law and order across its geographic extent.

In fact, the number of crimes recorded in Lisbon was very significantly higher than those registered in other parts of Portugal both in absolute terms and relative to the number of inhabitants living there. In 1859, the data conveys the leading role played by Lisbon in terms of the incidence of crime in Portugal. This was far and away the district with the most crimes and in both absolute and relative terms. With a national average of 1.2 crimes per thousand inhabitants, the district of Lisbon accounted for around 5 crimes per thousand inhabitants. No other national district even reached an average of two crimes per thousand inhabitants.⁶

While the lack of reliability of these then contemporary statistics, especially as regards criminal practices, at the time they did serve to justify many of the decisions taken by those in power, in particular as regards reforming and founding police forces in the city of Lisbon.

Through to 1867, various measures were proposed and put into practice for organising the police in Lisbon but all turned out to be only of brief duration. The exception was the setting up of the Guarda Municipal de Lisboa (Lisbon Municipal Guard) in 1834 with the set objective of 'keeping the public quiet, enhancing security in the city, without threatening its liberty'.⁷ Hence, from 1867 onwards, two police forces, the military style Lisbon Municipal Guard and the Lisbon Civil Police, as its title suggests a civil based institution, were encharged with maintaining public law and order and general peace in the city. Alongside these, there were the actions of the traditional police authorities made up of individuals or groups who, very commonly on a voluntary basis, implemented security strategies as a secondary activity.

Lisbon became the most policed city in the country and hence rendering the detection of crime by the authorities easier. Thus, it was also correspondingly easier for the population to gain access to intervention by the police authorities given their common presence in the social life of the city both in places of work during the working day and, most especially, in the places and times of leisure.

⁵ Diário da Câmara dos Deputados, session 23 de May 1855; intervention of the deputy Silvestre Ribeiro.

⁶ The data on crime were published in Boletim do Ministério dos Negócios Eclesiásticos e da Justiça, n.º 2, Lisboa, Imprensa Nacional, 1860, pp. 4-21. The data on the population were published in Censo da População do Reino de Portugal no 1º de Dezembro de 1890, Lisboa, 1896. About the crime in Lisbon in this period, see: Vaz, *O Crime em Lisboa*.

⁷ Law of 3 July 1834 that establishing the Guarda Municipal de Lisboa.

III. MEANS AND FUNCTIONS OF THE LISBON CIVIL POLICE

The Civil Police officers were divided into four police divisions with each attributed one of the city's neighbourhoods. In each division, there were police stations with a number defined in accordance with the characteristics of the site and its inhabitants. The scope of police action was also set out in terms of the streets and squares under surveillance being attributed to each respective police station.⁸

In 1867, Lisbon was allocated a maximum number of twelve police stations on the grounds that this would always enable swift reactions by police officers. The stations were specifically located in order to be able to provide reciprocal backup and support in case of any such need and enabling larger numbers of men to be deployed to curtail any unrest.⁹

Initially, the plans indicated a total of 250 officers with each station having its own commander. The peak of the command structure came with a government appointed general police commissioner. Under the orders of the district civil governor, the general police commissioner was responsible for commanding the police force, supervising the entire police service and undertaking its inspection. The structure also defined the role of special commissioners, within the framework of each respective division, responsible for criminal investigations. The members forming the base of the police hierarchy, the corporals and officers were not there to undertake criminal investigations but rather to send to the commissioners all of the information obtained as regards crimes and infringements.¹⁰

While the debate over the limitations on individual freedoms resulting from setting up a police force might only ever have attained very modest dimensions in Portugal when compared with what took place in Britain, for example, over the founding of the Metropolitan Police of London, there were some concerns expressed on this issue. Additionally, the different Civil Police Regulations systematically warned as to the need to ensure police actions did not come into conflict with the individual freedoms of citizens.

Even if clearly dealing with a somewhat rhetorical concern, this did gain material expression not only in the repeated affirmations about how police officers might only make arrests in *flagrante delicto* (otherwise detentions could only follow either a written order signed by the police commissioner or a judge issued mandate) but also in the concerns expressed over preserving private spaces where the police may only enter after having been requested to do so.¹¹

The competences and functions of the Lisbon Civil Police were stipulated by the force's own Regulations, which determined that the police service took on a permanent charac-

⁸ Charter of Law of 2 June 1867, that establishing the *Policia Civil de Lisboa* and publish the Regulations for this police force.

⁹ Charter of Law of 2 June 1867, art. 11.

¹⁰ Charter of Law of 2 June 1867.

¹¹ The *Guarda Municipal de Lisboa* could proceed to arrests, delivering the detainees to the commissioners of the *Policia Civil de Lisboa*.

ter.¹² All members of the force were obliged to turn up and provide service whenever necessary and exempted only when on leave of absence or sick.¹³ The police officers received specific prerogatives due to be observed in their interactions with members of the public. They correspondingly state that ‘The commissioners and police guards are not to be disturbed in exercising their functions’ and that ‘any insults, acts of disobedience or resistance to their mandates are punished in accordance with penal law as if made against administrative or judicial magistrates’.¹⁴ Furthermore, they also defined the boundaries for policing actions:

*The acts of civil police officers or any others deemed equivalent that disturb citizens when exercising their individual liberties that the law guarantees them, are deemed as abuses of authority» and «the civil police officers or any others deemed equivalent that engage in abuse of authority, illegally arresting and holding arrested any individual for more than twenty-four hours without due charge, in those cases where it is illegal to hold them, shall incur the penalties stipulated by the law.*¹⁵

The men joining the Lisbon Civil Police had to meet certain requirements.¹⁶ They needed to be able to read and write in a country in which the illiteracy rate stood at 80%; demonstrate their physical robustness, ‘good appearance and an age of between 22 and 40’. They were also required to demonstrate ‘excellent behaviour’ and having completed army military service. They also had to commit themselves to working for the Civil Police for a minimum of five years.

In addition to the functions directly connected with preventing criminality and maintaining public law and order, the civil police officers were attributed a vast set of tasks with broad social significance, designed to contribute towards a consensual ambience and the general wellbeing of the city. Such functions above all focus on the desire to discipline the popular classes and cultures within the city’s scope in addition to guaranteeing public hygiene in urban spaces. The main function of the Civil Police officers and corporals was to patrol the city streets by day and by night with the objective of protecting ‘effectively the security of people and property and the other rights of citizens’. However, the majority of their tasks involved disciplinary actions for particular behaviours along with the repression of habits, often very deeply rooted, in particular of popular groups, considered as undesirable and needing to be eradicated from the urban public space. In this sense, among others, they should strive to ensure compliance with the Municipality’s Positions and Regulations, in particular as regards sanitary inspections,

¹² From 1867 until 1910 there are three Regulations for the Polícia Civil de Lisboa: Regulamento para os Corpos de Polícia Civil de Lisboa e Porto. Criados pela Lei de 2 de Julho de 1867 (Lisbon: Imprensa Nacional, 1867). Regulamento dos Corpos de Polícia Civil aprovados por Decreto de 21 de Dezembro de 1876 (Lisbon: Imprensa Nacional, 1877). Regulamento da Polícia Civil e Judiciária de Lisboa aprovado por decreto de 12 de Abril de 1894 (Lisbon: Imprensa Nacional, 1894).

¹³ Charter of Law of 2 June 1867, art. 18.

¹⁴ Ibid., art. 25.

¹⁵ Ibid., art. 42 and art. 43.

¹⁶ Regulamento para os Corpos de Polícia Civil de Lisboa e Porto. Criados pela Lei de 2 de Julho de 1867 (Lisbon: Imprensa Nacional, 1867).

verifying that commercial establishments met the appropriate conditions, maintained their buildings and the utilisation of public spaces while also performing assistance roles, accompanying lost or abandoned children, providing first aid in case of injuries, assisting the sick, alienated and drunk individuals they encountered in the street, transporting the sick and injured to places of treatment; they were also to deal with fires; oversee traffic movements and prevent accidents; preventing load and carriage pulling animals from maltreatment by their owners; prevent the usage or carrying of forbidden weapons; suppress begging; strive for compliance with the norms of decorum and decency in public spaces, preventing, among others, prostitutes from causing scandals; monitoring the beggars and other persons considered of 'poor behaviours'.¹⁷

The police officers were compulsorily dressed in uniform and unarmed while they might be carrying a *terçado*, a short-bladed sword, in a period when men generally had the habit of carrying penknives and knives. Such was reinforced by the ban on carrying walking canes or umbrellas, objects that swiftly transformed into weapons in the many interpersonal conflicts that took place in the city. They also carried a whistle that served for calling up reinforcements whenever necessary.¹⁸

The police were forbidden from entering private residences without the prior authorisation of the owners except whenever so requested. Their scope of action was the public space. They also defined the set of disciplinary measures for police actions so as to ensure officers did not apply their authority in order to gain personal benefits. Hence, among other stipulations, they were not able to enter taverns or whore houses; they were not able to ask for loans or to act as guarantor; they received no tips or gratuities; they were also not able to request free entry into public performances.

The development of the Civil Police force between 1867 and 1910, when the monarchy was deposed in Portugal, headed in the direction of attempting to affirm how police officers should act in an impersonal manner, according to a type of bureaucratic professionalism. The number of full time officers would continue to rise and stood at over 1300 men in 1910¹⁹. Furthermore, some police officers began specialising in criminal investigations following the setting up of a specific unit in 1894.

Lisbon became the most closely policed and watched city in the country. Considering its population, according to the 1864 Census, there was a total of 163,763 inhabitants in Lisbon, should the 250 maximum number of officers have been met, there would be one police officer for every 655 inhabitants, a ratio significantly greater than that existing in London for the similar period.²⁰

¹⁷ Regulamento para os Corpos de Policia Civil, 1867. Regulamento da Policia Civil e Judiciária de Lisboa aprovado por decreto de 12 de abril de 1894 (Lisboa: Imprensa Nacional, 1894).

¹⁸ The use of a pistol became mandatory in 1836, under the dictatorial regime.

¹⁹ The final increase in the numbers of Lisbon Civil Police officers considered here took place on 28 May 1902.

²⁰ See: Taylor, *Crime, policing and punishment*, p. 88.

The relationship between the number of police officers and the number of inhabitants in the city of Lisbon would also head downwards over the course of time as while the city's population would rise at a good pace, the number of Civil Police officers would rise at an even faster rate. According to the 1878 Census, the population of the city of Lisbon totalled 187,404 inhabitants, with the Civil Police deploying a maximum of 350 officers, thus, one civil police officer for every 535 inhabitants. In 1894, following another rise in the number of officers but with the population having surged to 301,206 inhabitants in the meanwhile, the ratio became 1 civil police officer for every 376 inhabitants. In 1900, with the city's population at 356,009 and with the number of civil police officers having been boosted to 1,125 men in 1898, the ratio dropped back to 1 civil police officer for every 316 inhabitants. This was also prior to another expansion in the police force in 1902 that then deployed 23 police station commanders, 112 corporals, 235 first class officers and 1,069 second class officers.²¹

Hence, the trend was very much in favour of a rising number of civil police officers in the city of Lisbon all the while developing greater diversity and specialisation in their functions. The rise in their numbers was able to outstrip the increase in the population they served and correspondingly ensuring a greater presence in the social life of the city. Hence, Lisbon became an ever more policed environment over this period.

The civil police force established a clear presence in the city's social life. Furthermore, the desire to impose a police force that engaged in actions defined by rigour and the search for consensus emerged in the norms stipulated for its actions. In addition, the fact of remaining practically unarmed while on patrol, which restricted the scope for their imposing authority through brute force and threat of weapons, was designed to ensure more consensual, more persuasive and more peaceful interactions with the members of the population the police officers encountered while out on patrol.

In the rules and diplomas regulating the actions of the Civil Police, two further aspects particularly stand out. On the one hand, police disciplinary procedures and actions were set out so as to inhibit the police, preventing them from abusing their authority or gaining personal benefits. On the other hand, efforts targeted establishing a police force able to serve as a reference for the population in general. In this sense, there were recommendations such as, when in contact with the population, police officers were to set the example and correspondingly 'applying in all their interactions with citizens, the greatest of maturity and urbanity'. Officers were to maintain attitudes of firmness and energy and simultaneously prudence and moderation. The disciplinary regulation for the Lisbon Civil Police force thus reflected the prevailing ideal of what was considered a good citizen. Police officers were to strive not only for the observation of the ideals, values and legality defended by the socially dominant groups, capable of stating and defending the norms and laws to which all citizens were subject. The civil police force was therefore encharged with setting the example for the rest of the population.

²¹ Law of 28 May 1902. Data on population were taken from Censo no 1.º de Janeiro de 1864 (Lisbon: Imprensa Nacional, 1868). Censos de 1878 (Lisbon: Tipografia Universal, 1879). Censo da População do Reino de Portugal no 1º de Dezembro de 1890 (Lisbon: Imprensa Nacional, 1896).

The competences and ways in which the civil police officers were to engage in their actions and their respective behaviours were defined in the Regulations handed down to command and control the police institution. Nevertheless, the ways in which they actually acted and behaved, just how they interrelated with others depended not only on the regulated behaviours demanded of them but were also conditioned by their own social identity and certainly in addition to the individual personality characteristics of each civil police officer.

The relations between the population of Lisbon, in particular certain popular strata of this population, and members of the Lisbon Civil Police were very variable and dependent on concrete situations. The same person might at one moment criticise and express disgust at the actions of the police and, in some following moment, be requesting their intervention. On some occasions, members of popular groups engaged in deep collaboration with police actions while on other occasions demonstrating their bitter opposition to such actions. There was never any total rejection nor any constant cooperation with the popular groups inhabiting the city, and the members of the Lisbon Civil Police even while confrontation and hostility rose to the fore on many occasions.

IV. DISOBEDIENCE, AGGRESSIONS AND INSULTS TO AUTHORITY

The founding of the Liberal state, capitalist and bourgeois, led to the affirmation of a new operational logic and the imposition of new behavioural norms. Society as a whole should function according to a vast normative and legal framework, with criminal law practices demonstrating the clear objective of preserving the existing social structure. Therefore, police repression preferentially targeted the popular, mass strata, above all in urban contexts, with the set goal of somewhat brutally eradicating their ways of life, expression and leisure in order to chasten their habits, to instil in them ideas around respect for property and working discipline, among other aspects, within the scope of nurturing a liberal and consensual society.

In acting in accordance with the normative framework and the values belonging to the socially dominant groups, policing actions frequently collided with the habits prevailing among the lower strata of society, their ways of living, working and their leisure activities. The police were very often perceived by the common folk of Lisbon as a strange and hostile element in defending interests, norms and values, ways of being and behaving that were not their own. This clearly constituted the source of the greatest number and most serious misunderstandings and confrontations between civil police officers and popular urban groups. There were various situations that triggered conflicts between the population and the police and with abundant illustrations of such occurrences.

Between 1888 and 1892, 13% of arrests made by the Lisbon Civil Police were accounted for as 'disobeying authority', a situation that remained constant through to at least

1910.²² Such disobediences, slander and assaults on authority were offences otherwise absent in the national panorama but in Lisbon constituted one of the most common forms of crime. In Lisbon, in 1893, 1894 and 1895, the type of crime that led to the largest number of convictions was that of disobedience and resisting authority, essentially for threatening police authority.²³

Many of these acts of disobedience stemmed from the intervention of police officers in the daily routines of the population with a clearly disciplinary objective. Such was the case for many coach drivers and carters approached by the police who considered that they were in some way disturbing the circulation and hindering the movement of people and vehicles. In a considerable number of cases, the disobedience of authority, insulting and assaulting of police officers resulted from the actions that followed such approaches.

A carter was arrested on 1 August 1902 for being, along with the wagon he was driving, blocking the movements of a Carris de Ferro tram. In addition to insulting the passengers on the tram and, when presented to a criminal court, he attempted to flee with it thus becoming necessary 'to use force for restraint'.²⁴ Another carter got arrested on 6 June 1902 for trying to get up a very steep road with a wagon that was too heavily overloaded for the animal to cope with according to the judgement of the police officer. This carter also insulted and assaulted the officer with a punch and a bite when getting arrested.²⁵

However, the coach drivers and carters were not the only workers to demonstrate such behaviours. A fish seller was arrested on 8 September 1910 for disobeying an officer who had 'on more than one occasion' ordered the 'removal of a stall with fish that had been set up on the lateral footpath of a public thoroughfare', alleging that this was blocking 'the legal transit of passers-by'.²⁶ On this same date, a pedestrian was also arrested for disobeying an officer who had ordered the removal of railings from a building²⁷ and, two days earlier, another man was arrested for not having moved on from his spot in a square when the police officer ordered him to. He was there selling postcards and the police deemed he was interfering with passers-by.²⁸ Still another man ended up arrested for not obeying when a police officer ordered him to move on from the entrance to a building where he was stood shouting; calling for a woman to come out and speak to him.²⁹

²² Mapas estatísticos do ano de 1888 da Polícia Civil de Lisboa; Mapas estatísticos do ano de 1889...; Mapas estatísticos do ano de 1890...; Mapas estatísticos do ano de 1891...; Mapas estatísticos do ano de 1892... (Lisbon: Imprensa Nacional, 1889-1893).

²³ Data on convictions: Alfredo Luís Lopes, *Estudo Estatístico da Criminalidade em Portugal nos anos de 1891 a 1895* (Lisbon: Imprensa Nacional, 1897).

²⁴ National Archives (Lisbon, Portugal)–ANTT (thereafter NAL), Fundo Crime Antigo de Lisboa, n° de transferência 1958, Cx. 2, n° 62 (provisional number).

²⁵ NAL, Fundo Crime Antigo de Lisboa, n° de transferência 733, Cx. 2, n° 37 (provisional number).

²⁶ NAL, Fundo Crime Antigo de Lisboa, n° de transferência 2069, Cx. 2, n° 77 (provisional number).

²⁷ *Ibid.*, n° 71 (provisional number).

²⁸ *Ibid.*, n° 62 (provisional number).

²⁹ NAL, Fundo Crime Antigo de Lisboa, n° de Transferência 1958, Cx. 2, n° 46 (year 1902) (provisional number).

Such minor acts of disobedience made up the day-to-day relationship of the masses with civil police, disobedience in the face of a frankly disciplinary and constantly intrusive attitude towards the livelihoods of the popular classes. There are situations of disobedience that occurred between individuals reprimanded by officers that generally ended up with the former getting arrested not for the gravity of the act that triggered the admonishment but rather for contesting the police action. In a central Lisbon square, an officer would tell a man sat on the floor to get up. The man did not obey, stating that he had no such obligation to do so. He was arrested for the crime of disobedience and subsequently sentenced to one and a half months imprisonment.³⁰

In fact, this disciplinary task was clear in the majority of policing actions, frequently resulting in situations of confrontation between the individuals targeted by such reprimands and the police officers and commonly leading to the arrest of the former. However, those who were already present and witnessing the occurrence would sometimes opt to intervene and challenge the policing action. On 26 December 1910, a man was urinating on the pavement having been warned by a police officer who was witnessing the act. However, a stonemason who was passing by 'got involved in the service of the officer', stating that 'if it were him, he would not dare to advance against him', while simultaneously putting his hands in his pocket 'making reference to pushing some iron' into the police officer. This led to the grounds for his arrest, which led the transgressor then attempting to assault the police officer in refusing to accompany him.³¹

Some of the assaults on officers took on a serious nature, preventing them from turning up for duty for periods of a greater or lesser extent. Such was the case of an officer, assaulted and wounded to the lip, who was not able to turn up for work for various days.³² On 26 February 1881, an officer was assaulted in the street after having attempted to restore order inside a food and drink establishment. His life was reported as in danger.³³ Another officer was stabbed with a knife by a worker who had been told to get off the pavement where he was, according to the officer, blocking the traffic.³⁴

Some of the arrests made were contested by those in attendance and to the extent of attempting to help the detained to flee in a frontal and hostile challenge to the police action. On 17 October 1901, on a street in the city centre, a man was arrested for disobeying a police officer who had ordered him to get off the pavement. Three other individuals, saying that this was 'badly done', sought to ensure the arrestee was able to escape. They instead all ended up under arrest following the intervention of other officers who were in the vicinity.³⁵

³⁰ NAL, Fundo Crime Antigo de Lisboa, n° de Transferência 733, Cx. 3, n° 62 (year 1902) (provisional number).

³¹ NAL, Fundo Crime Antigo de Lisboa, n° de transferência 14, Cx. 1, n° 86 (provisional number).

³² *Diário de Notícias*, 1 January 1881, p. 1.

³³ *Ibid.*, 28 February 1881, p. 1.

³⁴ *Ibid.*, 11 March 1881, p. 1.

³⁵ NAL, Fundo Crime Antigo de Lisboa, n° de transferência 733, Cx. 1, n° 3 (provisional number).

Within the scope of their disciplinary framework, civil police officers particularly sought to clamp down on drunkenness, the second largest cause for arrests made in Lisbon between 1888 and 1892, a situation that also did not undergo any significant change prior to 1910.³⁶ The consumption of alcohol was then perceived extremely negatively, disturbing the habits of work and life that the force wished to see respected. There were many men arrested for drunkenness who then contested their arrest through resisting and insulting the officers.

Disobedience, resisting and insulting authority represent the daily facts of life that reflect the prevalence of hostile attitudes towards the actions of the police and both a failure to recognise their authority as well as not sharing in the norms and values that the officers were encharged with upholding and defending. The police force, put forward as a solution to the problem of rising criminality and disorder, acted in ways designed to be impersonal and professional in the sense of fostering a disciplined society, obedient and observing the law and the order that the socially dominant groups wished to see implemented.

Even though the defendants involved in such disobedience, slander, insults and assaults on authority belonged almost exclusively to the popular groups, the criticism of the police actions did not exclusively arise from these classes. There was a generalised perception that the civil police officers lacked in training and their actions were poorly targeted with the affirmation of the need for them to become a moralising and instructional example to society as, should this not occur, they would become another factor fostering disorder rather than guaranteeing security: 'One of the elements to maintaining order and internal security is the policing organisation; but for this to perform its mission, it should be moralising, strong but prudent and, in many cases, instructive, and benevolent without inequalities; otherwise, this might well turn into an element promoting disorder'.³⁷

Some of those arrested accused the officers of recourse to violence and maltreatment when they appeared in court; a fact that the police officers sought to devalue, arguing that such was no more than a strategy designed to denigrate their actions.³⁸ Accusations of violent treatment made by those arrested and charged resulted in some criminal processes, sometimes undertaken with a great deal of authority. The lawyer for one defendant, facing charges of murder, set out a defence that, in addition to putting forward reasons testifying to the innocence of his client, a rural labourer from the outskirts of Lisbon also accused the police authorities of using violence against the defendant in efforts to extract a confession, which they did not achieve.³⁹

³⁶ Mapas estatísticos do ano de 1888 da Polícia Civil de Lisboa; Mapas estatísticos do ano de 1889...; Mapas estatísticos do ano de 1890...; Mapas estatísticos do ano de 1891...; Mapas estatísticos do ano de 1892... (Lisbon: Imprensa Nacional, 1889-1893).

³⁷ Guimarães, *Curso de Sciencia da Administração*. See also Hespanha, *Guiando a mão invisível*, p. 289.

³⁸ NAL, *Fundo Crime Antigo de Lisboa*, n.º de Transferência 733, Cx. 2, n.º 30 (year 1902) (provisional number).

³⁹ NAL, *Fundo Crime Antigo de Lisboa*, n.º de Transferência 985, Cx. 1, n.º 10 (years 1901/1902) (provisio-

The press also published criticisms of the authorities and alleging abuse of authority by some police officers. *Diário de Notícias*, the newspaper with the largest national circulation figures in this period, referred to how a police officer decided to follow a man who was arguing with a woman, arresting him and alleging that he both resisted and failed to show respect for the police. Presented in court, the man was freed and the police officer responsible for his arrest was termed as displaying 'a tendency towards an excess of authority'.⁴⁰

The police force, however, had few resources and technical means to effectively comply with their function of preventing and prosecuting crime. Police investigations did take place, especially after 1894 and the founding of the *Policia Judiciária e Preventiva de Lisboa* (Lisbon Judicial and Preventive Police Force), but they were only rudimentary, based on some know-how and objects and above all leveraged by the witness accounts of those present or who knew the victim or those suspected of criminal acts. This drew criticism from among the population accusing the police force of failing to comply with their primary function: preventing and suppressing crime. This perceived the police as agents from a strange group, sent to restrict their activities that they did not perceive as socially reprehensible while allowing the criminals to go about their business. When, in 1893, the body of a murdered woman was discovered, the police encountered major difficulties in discovering the author of this crime. The population then staged violent demonstrations against police actions and their lack of any effective capacity to prevent and repress criminality.⁴¹

The Lisbon Civil Police was still only a recently founded institution that was going through a process of legitimisation that also involved the professional learning of its members. While criticised by many, they were also subject to campaigns of support with the Civil Police having clearly elected ensuring that their authority prevailed among the population as their main task. Indeed, this is generally the first task that the public institutions designate for themselves: gaining recognition of their authority among the communities in which they act.⁴² This purpose emerges clearly out of the actions of the Lisbon Civil Police but the repeated challenges and clear hostility is also equally in relation to their actions among the popular strata of Lisbon society, which constituted a priority target for their actions. In general, the response of the police authorities was to strive to further strengthen their authority and demonstrate the power that had been delegated to them. Generally, among the broader population, the demonstrations of authority tended to lead to a deepening of the resistance, disobedience and criticism, frequently insulting in tone and content, of the activities carried out by the police force.

Such was the generalised nature of this opposition to the police that it led to declarations in defence of the police and criticism of the population for not concurring with

nal number).

⁴⁰ *Diário de Notícias*, 27 January 1881, p. 1.

⁴¹ *Galeria dos Criminosos Célebres*, vol. II (Lisbon: Palhares, 1897), pp. 80-95.

⁴² See: Garland *The Culture of Control*.

police authority. Such a position affirmed that there was an «inveterate vice and an unequable pleasure of the Portuguese to talk badly about the police», and blaming parliament itself for the example that it set:

Should a police officer make some small infringement, the world comes down on the police corporation like a ton of bricks and the case gets long articles in the newspaper and causes appeals to be made in parliament. – What does the minister of the Kingdom say to this scandal of officer 229 from third division having assaulted Mrs Maria Antónia? Under what regime do we live, President? What measures has your Excellency President of the Council taken as regards this most serious case? Really, the police is the target of all ill-will, all of the hatred and all of the anger.⁴³

Such criticism emerged from various sectors of society, including the press. When the press did not support police actions, the counter accusation charged the newspaper with acting against security and public order:

The people present in turbulent neighbourhoods are constantly in open conflict with the agents of authority. [...] Very often, rowdy sailors would cause reasons for police interventions so that they could enjoy doing battle with the security officers. The people are always on the side of the sailors and the reportage also on the side of the sailors and the people who cause disorder.⁴⁴

They published articles in which they sought to affirm the importance of police actions and police officers in defence of general security: 'Before the existence of these police, who deal with so much unfair hatreds and with all the weight of such ingratitude, nobody was safe whether on public paths or at home. [...] Today, thanks to the much defamed police, we are able to go through the most labyrinthine and eccentric neighbourhoods of the capital, at any time of night with a gold purse in each hand and nobody is going to touch us', while adding that the importance of the police force extended beyond combating crime to also include assisting those who fall sick in the public domain, getting them to hospital, among other actions of a civic character.⁴⁵

In fact, the police also received expressions of support and congratulations. When police actions that sought to capture the perpetrator of some serious offence ended successfully, the population would show its support by clapping and saluting the officers responsible. On other occasions, regular members of the population would, according to their own sense and values of justice, assist the officers in countering crime, helping to arrest those who had broken the law or providing relevant information enabling the capture of criminal suspects. Members of the population helped officers capture two individuals who had 'contended' with a woman, making her drop her 3-year old daughter she

⁴³ Galeria dos Criminosos Célebres, vol. IV (Lisbon: Palhares, 1900), p. 203.

⁴⁴ Ibid., p. 205.

⁴⁵ Ibid., vol. II, 1897, p. 84.

was carrying. As the arrested persons refused to accompany the police, some bystanders intervened and employed 'muscular force to lead them to station'.⁴⁶

Some interventions sought to praise and compliment the role of assistance and civic behaviours of Civil Police officers, for example affirming: 'The police is the corporation that provides the greatest level of services. [...] In healthcare, security, public order, in afflictions of all the types that we might experience, we always think it better to have a police friend and protector close to hand ready to supply us with assistance'.⁴⁷ However, it was finally through its role in preventing and combating criminality that ensured the police force might improve their relations with the population of Lisbon, in particular the popular groups inhabiting the city. While these proved the source of the overwhelming majority of individuals involved in crime, they were also the source of the majority of victims of their crimes. These were the persons that most sought out assistance from the police. They were not the elite members of society that sought to protect themselves and their assets through the actions of the police but rather came from the socially disadvantaged layers of society who most needed and who actively sought protection and security from the police. They correspondingly made an enormous number of complaints to the police in this way seeking mediation in the conflicts that they had become immersed in and thus attempting to protect their own interests. The police force was correspondingly requested not only to rule on the conflicts that emerged in public spaces but also that took place within homes, in domestic family contexts.

V. CONCLUSION

In Lisbon, the rise in police activities over the course of the second half of 19th century, the diverse, different reforms, the increase in the number of police officers and the technical means and resources made available ensured more effective police actions in the prevention and repression of crime. This fact furthermore enabled an increase in the number of crimes detected and investigated by the authorities and with a level of occurrence that we today know. The argument that criminality was relentlessly rising was deployed as the main justification for the need to found a civil police force dedicated to preventing and combating crime in the city of Lisbon. However, the actions of the police certainly also contributed to boosting the number of crimes detected and reported to the authority underpinning the idea, even if possibly artificially, that criminality was on a constantly rising trend, especially in the city of Lisbon.

From the state's perspective, it was important to affirm its capacity for vigilance, implementing norms and imposing its authority and coercive power, in particular in the city of Lisbon, the capital of the kingdom and the empire. However, the apparatus of the liberal state, still under construction, held only a limited capacity to control the totality of the territory and its population, especially as regards the observance of criminal laws.

⁴⁶ NAL, Fundo Crime Antigo de Lisboa, nº de transferência 12, Cx. 2, nº 87 (provisional number).

⁴⁷ Galeria dos Criminosos Célebres Portugueses, vol. II, 1897, p. 84.

They therefore opted to prioritise channelling the resources they had available into the largest city in the kingdom and the leading political, administrative and cultural city in the country. The power and the authority of the state was thus above all experienced in Lisbon, leading to greater demands over compliance with the law and correspondingly greater intransigence and intolerance for any actions in breach of the law.

The police emerged as a solution for the rise in criminality and public disorder, acting within the scope of implementing a disciplined and obedient society that observed the law and order that the dominant social groups wished to see established. It was above all attempting to fulfil this disciplinary task that clashed most strongly with the popular attitudes and behaviours, resulting in a high number of charges for disobedience, resistance, insulting and violence against the authorities.

The members of the Lisbon Civil Police represented the authority of the state and held important discretionary activities in applying the law, deciding in each precise moment just who should be reprimanded and what might be allowed. Furthermore, it was the members of the population who, displaying behaviours that the law criminalised, ended up most frequently in conflict and direct opposition to the police officers. The role of the Lisbon Civil Police officers was to implement the then established legal framework, seeking to impose its norms and values, ways of living and socially engaging that were frequently not then shared by the population inhabiting the city. This was the main factor driving the lack of understanding of police actions among representative sectors of the Lisbon population who, therefore, grew hostile towards the police.

At a first level, the police officers were the first to exercise their discretionary powers over just what constituted a violation of the law and duly deserved to be punished even while it would be the courts that would later rule on whether there had been any effective violation of criminal law and determine the appropriate penalty according to the juridical framework in effect. The police force was the state authority closest to the population. The inhabitants of Lisbon would daily pass by civil police officers who correspondingly became the closest representatives of the law and the means through which that law was experienced and thereby conditioning the relationship the mass population built up in relation to their rulers and their representatives.

However, due to the different functions and situations in which the police might appear in the lives of the people of Lisbon, their attitudes towards officers and the force in general tended to remain ambivalent. There was systematic recourse to the police in attempts to ensure their interests prevailed in mediation over their conflicts. However, there was also constant criticism and hostility towards police actions. While acceptance of police actions became, step-by-step, greater, it would nevertheless remain fragile throughout a long period of time and subject to swift breakdowns. With the passage of time, there emerged a rising level of acceptance of policing actions and becoming understood as something that made up part of daily life in the city. Simultaneously, there was also a growing understanding that the actions of the police did not only bring benefits to the socially dominant groups. Among the working population, the police gradually develo-

ped more positive relationships even while always remaining rather unstable and easily breaking down. The attitudes of the population towards the police force therefore reflected the ambivalence with which penal law may be perceived. In seeking to punish behaviours that were frequently not assimilated negatively by the general mass of the population, the law and police actions might thus be considered as simultaneously a tool of justice and a system of oppression.

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Maintaining public order without the participation of the population – Policing of crowds by the police of public opinion (France, late nineteenth century)

Laurent López

Jules Bonnot had already been dead for a fortnight after being assaulted by the police officers and Republican guards and gendarmes of the Seine company, when two of his accomplices were spotted *in the eastern suburbs of Paris*, on 14 May 1912. Apart from the device created in a hurry to besiege the attackers, between the shots and the explosions, there was also an individual who intervened joining the reunited forces of the order to support the operation inside the house. A commentator in *Le Petit Journal* mocked it afterwards:

*A Parisian brought a dog who had been trained in a kennel of the Nogent prefecture, and he asked permission to let his animal come inside the villa. We have acquiesced to his request and the dog has been thrown by his master into the house. The animal ran to the end of the property and attacked agents barricading the exit. Guards were attacked by the dog who had not understood the command of his master. The poor animal got kicked and the experience has not been pushed further.*¹

In these circumstances where mass-media gave huge exposure to the incident, popular participation in maintaining order failed and even became a joke. However, this episode and the story are directly significant in several ways for the topic developed in the present volume. Firstly, the conclusion ('the experience has not been pushed further') highlights how the decades preceding the First World War are indeed, a moment when the participation of the population in the maintenance of order is no longer appropriate; the bourgeois guard, civic guard and other national guards² are memories that no Republican, sitting on the right or left in the Chamber of Deputies, wants to revitalize. A second aspect is relevant: the haunt of Octave Garnier and Rene Valet – the members of the 'Band Bonnot' mentioned above – are loaded incarnations of all components of the national³ policing landscape of that time. More specifically, within the hybrid body built for the maintenance of order, the gendarmerie played a vital role in terms of numbers. A third element of the iconic episode is the pressure of the press and more broadly of public

¹ 'On n'a pas eu recours aux chiens policiers' (*Le Petit Journal*, 16 May 1912, p. 2).

² Learn more about this from the aforementioned source article.

³ Learn more about this from the aforementioned source article.

opinion on what constitutes public security.⁴ Because, if the population no longer directly participates in the maintenance of order, this does not mean that they plays no role at all *in an extended sense* of the term. The role of the public is not only limited to the policing of crowds in the streets (or in the countryside), but is also about preserving socio-political order in which citizens participate and exercise their democratic rights, along with their representatives. If the maintenance of order results in chaotic policing of crowds, nonetheless it cannot be reduced to the accidents which happen, even if they are tragic. As well as representing a challenge, this public policing is also, and perhaps above all a result of a more stable, daily, peaceful relationship with the population.

At the turn of the twentieth century, the maintenance of order in the strictest sense therefore tends to become the monopoly of gendarmes in France. If in the rising democratic and parliamentary Third Republic, there can be no question of associating the population with maintaining order, at least not directly, the participation of the population seems to follow the police role in a political way. Thus, the elected leaders and municipal councils now answer to the population's complaints, people ask for more surveillance, more repression, more forces for law enforcement and simultaneously, more individual rights and collective freedoms. These claims may have an impact on the recruited police officers, but also on the nature of the police force and the means employed. In a way, the population is shaping the function assigned to gendarmes and the police in the democratic regime that is finally settling at the time.

I. GENDARMERIE, ONE OF THE CONDITIONS OF THE STRUCTURE OF REPUBLICAN DEMOCRACY

1. Gendarmes first and foremost

The confidential circular of Pierre Waldeck-Rousseau, Minister of the Interior, addressed to the prefects on 27 February 1884 is a cardinal text on the maintenance of order in France in contemporary and recent history. The gendarmerie was born in 1791 and soon established itself as a privileged player. On the other hand, its actions must constantly be moderated as much as possible. The prefects' assigned objective should 'help them to achieve the double result of ensuring both freedom of individuals and public security.' The government aims to promote the right to gather while preserving one of the 'natural and imperceptible rights' set out in the Declaration of the Rights of Man and the Citizen, namely security. As such, the prefects have to ensure resolution of conflicts by 'words of conciliation' as 'the gendarmerie is the only public force that [they can] use to ensure the order and protect the peace; this is their principal mission, the troops have a different one.'⁵ Regarding uniforms, the objective is to limit as much as possible the use of the tro-

⁴ For more information, we refer you to Laurent López, 'La bande à Bonnot: l'assaut final à Nogent (14-15 mai 1912)', Criminocorpus [Online], Histoire de la police, articles available online from the 1 January 2009, consulted 11 July 2018. URL: <http://journals.openedition.org/criminocorpus/269>.

⁵ Archives nationales (Paris, France) (hereafter AN), 19940500, art. 3, minister of the Interior confidential circular to the prefects on policing and the role of the gendarmerie, released on 27 February 1884.

ops who are less experienced in policing crowds, including troops mainly composed of conscripts likely to panic in front of demonstrators and react by firing or, on the contrary, those suspected of sympathizing with them.⁶

As the gendarmes learn from the Republican Guard where 'the first page to be written by the new recruits' and 'copied in the notebooks', reasonable use of public force against instinctive violence is defined according to the decision of 3 August 1881 specifying their service. The text requires that guards 'should use force only after exhausting all peaceful means of persuasion [emphasis added] and use their weapons only in case of necessity, in self-defense when their lives are threatened'.⁷ As we can see, if the public cannot be involved in the maintenance of order, interior minister Waldeck-Rousseau's circular intends to encourage the participation of the population in the new republican order which has gradually been put in place since 4 September 1870.⁸ 'Thanks to the progress of the opinion that is increasingly shaped by the mores of liberty' to quote again the man who worked also to legalize the unions in 1884, the democratic expression of the roots of the Republic system in the people, as its forces of order are essential to the exercise of the former in the service of the latter. This specification works only if the policing is based on well-mastered practices, regulated and responsible constraint that will as far as possible allow the elimination of brutal, unrestrained and dehumanizing violence.⁹

In 1884 formalization and acceleration had worked for the pre-eminence of the gendarmerie in the matter of policing. Here, a fine chronology is necessary. The confidential circular of Minister Waldeck-Rousseau dates from the end of February. However, soon after on 5 April, the great law of the municipal organization of 1884 is published, a law which is one of the pillars of the structure of the territorial Third Republic. Two weeks earlier, on 21 March, the same minister is behind the law on the creation of professional unions. Is it a coincidence that these two events happen almost simultaneously? Most likely not because the February confidential circular also underlines the government's commitment to the people's 'right to coalition'. This was a precursor of the text on 'security and freedom' that came back in the late 1970s in France and remains until today. It must be noted that the confidential circular on the maintenance of order and the predominance given to the gendarmerie promotes the expression of democratic freedoms. In that regard, the construction of the regime and the structuring of its public force fit well with the legacy of the *Déclaration des droits de l'homme et du citoyen* of August 1789 in which 'raising taxes' and 'maintenance of the public force' go hand in hand with the *Déclaration des droits de l'homme et du citoyen* of August 1789. Similarly, the references to 'raising taxes' and 'maintenance of the public force' go together perfectly.

⁶ Bruneteaux, *Maintenir l'ordre*.

⁷ Service historique de la Défense, fonds gendarmerie (hereafter SHD), GD 1 H 88.

⁸ Berlière, 'Du maintien de l'ordre', pp. 6-29.

⁹ See: *Déviance & Société*, 32, 1 (March 2008), special issue: La violence d'état. Les fragiles naissances du maintien de l'ordre en France (1800-1939).

2. Dualistic and hybrid monopoly on policing

The 1880s appear as a period of consolidation of the hybrid policing that first emerged in 1791, on the order of police commissioners during the first year of contemporary French public force. In fact, at the beginning of its founding year, the National Gendarmerie succeeded the Royal Maréchaussée; in September of the same year, police commissioners were reborn ‘in all cities of the kingdom where they would be judged necessary’ (Decree of 21-29 September 1791 on the establishment of police commissioners). The revolutionaries, who intend to overthrow the Ancien Régime, nevertheless need a force allowing them to establish and maintain a new political order, and as Paolo Napoli points out they need to question the nature of the concept of public ‘force.’¹⁰ The law of 10 July-3 August 1791 legally and durably establishes hybrid and dualistic policing as the link between these two components of the police force by, setting the terms for the requisition of armed force by the civil authorities.

From then on, the maintenance of order in France is characterized by the interdependence and complementarity of the institutions that have to ensure it: the police – in the first place the commissioners – and the military – in particular the gendarmes. However, in the Third Republic the former was largely devoid of agents because the authorities responsible for paying the municipal staff lack resources or refuse to devote resources to the Commissioner as this was the incarnation of central power. The gendarmes thus are the armed wing indispensable to security agents and they must help them when needed. Conversely, the gendarmes are strictly subject to the civil authorities, who alone can proceed to the summons authorizing the use of weapons except in cases of self-defense or protection of persons and buildings attached to the institutions. The Waldeck-Rousseau circular of 1884, already mentioned, is therefore one of the illustrations of the ‘révolution qui entre au port’ (‘revolution that comes into port’), to use François Furet’s classic formula; in this case because the institutions appeared during the Revolution are firmly attached to the regime and they guarantee the correct functioning of the regime. In this division of roles in the service of the executive power, there is no place for the population. On the contrary, laws are imposed to counter the people, even when their actions apparently seem legitimate and conform with the established order.

In Burgundy, for example, circumstances illustrate both this exclusion of direct participation of the population in police work and also the lack of close collaboration between police and gendarmes. For example, a municipal commissioner witnesses the escape of frightened individuals. After reassuring them, he asks about the cause of their fear and they claim to have been attacked by a showman, a ‘Hercules or wrestler armed with a sword that he wanted to use to hit one of the them’. The officer undertakes to search the city for the alleged author of the disturbances and then faces the population who ‘in the presence of these provocations and threats [...] was indignant and was already looking for ways to demolish his barracks [...]. Immediately, and in the absence of a police officer in the office, we [the Commissioner] required the Gendarmerie’s sergeant-general to put

¹⁰ Napoli, *Naissance de la police*, p. 195.

at our disposal a few men to arrest this dangerous wrestler. Assisted by four gendarmes, we [...] found the individual in question [...]. Once again invited to follow us, he finally ended up getting up and walking with the officers after being grabbed by the arm.’¹¹ In the growing Third Republic, there is no more question of public participation in the maintenance of order, as was perfectly demonstrated with the previous example. Or rather, is this contribution reserved for only part of law enforcement, which bears, in this case, the policeman’s uniform or is flanked by the tricolor scarf of the police commissioner. Here, the action of the public force consists of protecting the showman from popular anger. Elsewhere, the representatives of national sovereignty, which is more or less popular, can first participate in public disorder by thwarting gendarmes and police actions, including substituting a local law with the international law.

II. PUBLIC FORCE AGAINST COMMUNITY ORDER

1. Who will watch over the guards?

During the Third Republic, even more than before, the police represents not only one of the institutional manifestations of the nation but it is also both a symbol and, equally an instrument of the democratic regime. As such, police practices become fully political, and not just preventive or repressive actions. In an article entitled the ‘Good Citizen of Tarare’, published on 16 May 1897, a newspaper from Rhone accuses, the gendarmerie of harming the government and lowering approval of the Republic due to the severity of the traffic police. More directly, people must intervene against the guardians when their actions become inappropriate. One of the gendarme’s patrols in the cabarets of a town in Saone-et-Loire not only causes a scandal because of the gendarmes’ behavior, but the officers also refuse to regulate their alcohol consumption when asked to do so by the owner of the place. The proprietress recriminates and is handcuffed and prepared to be taken to the prison. When the inhabitants intervene to defend the unfairly arrested woman, the gendarmes threaten them with their swords and their revolvers. The intervention of infantrymen and garrison officers saves the defenders from the further fight.¹²

2. Officiousness is harmful to public order

There are other examples where the military threatens the established order and violates public trust. In the next case, it is not a question of law transgression or any case of violence as we saw in the previous section, but of an excess of zeal – or at least events experienced as such – making the implementation of the law unbearable. In the early 1890s, a Burgundian sub-prefect, informed by the central commissioner of Châlons-sur-Saône, notes that relations between the population and the gendarmerie have become tense, noting a significant increase in complaints. He reports ‘an increase which does not

¹¹ Archives départementales (thereafter AD) de la Côte-d’Or, U XI D7, Minutes of Beaune Police Commissioner on the arrest of a fairground fighter, 13 November 1887.

¹² AD Saône-et-Loire, 5 R 3, Letter from the Directorate of General Security to the prefect of Saône-et-Loire about an article published in *le Progrès de Saône-et-Loire* concerning events in the city of Saint-Laurent involving gendarmes of the brigade of Saint-Germain-du-Plain, 2 August 1878.

seem justified by any reason, in his opinion. The officiousness would be stimulated by the sergeant-in-chief who shows a list every month of all the gendarmes and the respective number of protocols which have been drawn up. The sub-prefect concludes that 'it is at the instigation of the leaders that the gendarmes are also hard on the population' of Le Creusot. The latter was however usually viewed as having a good temperament. To restore an order which was disturbed by his guards, the officers ask for the removal of gendarmes who 'would be welcomed with satisfaction not only by the Republican party in Le Creusot, but also by the majority of the inhabitants themselves'.¹³ Here again we see that political considerations at least partly condition the estimation of police activities and the influence is rather mutual. The public impression of the military is still perceived through their service for the Second Empire, yet on the other hand their loyalty to the Republican regime seems suspicious for some supporters of the second. A few years earlier, a sub-prefect in Gironde had felt 'still obliged to return to the gendarmes' to report complaints about two Republican candidates during elections. The sub-prefect had received complaints from hunters accusing the gendarmerie of pursuing them excessively on the grounds of the 'the countryside that is visited all day long, and disturbed according to their inhabitants. Certainly, vexation arises as the last election is approaching. Another fact that should be noted is the general concern for the roads being traveled along by suspicious groups of individuals, and that the gendarmerie does not ensure safety on these roads'.¹⁴ The sub-prefect suggests intervention from the police moderation to promote the political stabilization of a republican order in the department, barely ten years after the promulgation of the constitutional laws. We observe here a local process of implanting the national structure, not by a one-off control from the population but rather by standardized practices of those who are specifically in charge.

III. WHEN PEOPLE'S REPRESENTATION PROVOKES DISORDER

1. Law influenced by local pressures

The law involuntarily and indirectly releases the expression of popular disorder through the municipal authorities. Consequently, three types of difficulties arise showing the tension between the submission of the gendarmes to national state order and the temptation of the officials to allow municipal standards to prevail, sometimes treating the population as political clients. The first frequent type of incidents is when gendarmes come up against a mayor who blames them for their officiousness relative to closing drinking places to conform with the legal hours. Opposition to gendarmes or to the police com-

¹³ AD Saône-et-Loire, 5 R 3, Report from the sub-prefect of Autun to the prefect, on the situation of the gendarmerie in the city of Creusot, 15 October 1891. On 7 April 1891, a letter from the mayor of Cluny to the prefect concerning 'the new Marshal of the gendarmerie F [sse] far too dutiful he draws up minutes accusing good people for insignificant violations'. He goes on to say that 'in making such trials, the gendarmerie only attracts the contempt of honest people, and their vexations have a deplorable effect on the political point of view'.

¹⁴ AD Gironde, 5 R 11, Letter from the sub-prefect of La Réole to the Gironde prefect, 12 October 1885.

missioner is usually even stronger when the delinquent is a person familiar – friend or relative – to the city official concerned. The mayor of Saint-Claude thus ensures surveillance of the cafes by his agents and asks the police not to patrol during the closing hours of drinking establishments. The *arrondissement* commander points out that the mayor cannot limit his supervision by noticing some violations and ‘turning a blind eye to others.’¹⁵ This example illustrates the frequent type of conflicts between city officials and *gendarmerie*, particularly regarding regulation of drinking places. The collision of local practices and global norms are increasingly influenced by anti-alcoholic leagues and hygienist principles, a development which seems almost inevitable in the places where masculine sociability and virile expression are exacerbated by alcohol.

2. Force of the law or partisan opinions?

The second type of disorder is more political, relating to situations when a mayor is unwilling to provide accommodation for *gendarmes* mobilized in places of social unrest. These quarrels multiply during the early years of the twentieth century in socialist communities, including the Paris suburbs which constitute the *ceinture rouge* (red belt). A member of the Seine region – the mayor of Ivry-sur-Seine, the socialist Jules Coutant, a friend of Jules Guesde – for example, intervenes in the matter of policing reinforcement against striking workers who want to violently block the entrance to his factory. Questioning the request of the deputy, the prefect Lépine justifies the maintenance of the device applied by the Minister of the Interior on the basis of the reports of the police commissioner and the *gendarmerie* officer who command the *arrondissement*.¹⁶ The elected official does not seem to be satisfied, and the episode reveals converging constraints imposed on those people responsible for maintaining order and the political stakes that motivate those officials. In the particular configuration of the police prefecture, the chief and his authority protect this establishment against the pressure of elected officials. However, things function differently way in provinces where the General security officials and the *gendarmerie* soldiers appear more directly exposed.

3. Public finances against public order

A third category of conflicts is the refusal, or at least opposition, to pay for the police commissioner. Since the 1790s, every city with more than 5,000 inhabitants had had to pay for one of these offers, and some municipal councils were opposed to the burden of this charge on their budget. At the height of summer in 1892, the director of the General Security, Soinoury, sends a reminder to the prefects inviting them once again to pay a municipal police commissioner (law of 28 Pluviôse year VIII, article 12). This obligation applies to municipalities exceeding the threshold of five thousand inhabitants. According to the law, municipal councils close to this threshold must vote to provide one

¹⁵ SHD (Archives of the *gendarmerie*), 39 E 49, Letter from the Borough Commander to the Mayor of Saint-Claude, 8 December 1912.

¹⁶ Archives of the *préfecture de police* (hereafter APP), DA 447.

thousand francs in order to create a fourth category police station.¹⁷ This administrative injunction is an answer to several crimes including, for example, one a few weeks earlier in Burgundy committed by the municipal council of Nuits-Saint-Georges. In fact, he abolished the position of commissioner ‘thinking that the service of the internal police of the City would be sufficiently covered by the gendarmerie brigade and the officers sworn especially for this purpose.’ The prefect intervened next to request the restoration of this post on the grounds that ‘the number of vagrants and beggars passing through Nuits that has increased considerably recently; whereas, furthermore, certain public establishments should be monitored more closely in order to ensure public safety and peace, and that to be truly effective, the police must consist of the officers with great recognition and authority’.¹⁸ The rich viticultural community obviously refuses to devote part of its budget to a new police representative. While it is difficult to separate the political reasons from the economic motives, we can however note that there has been no questioning of the presence of the national gendarmerie at the expense of the state which paid for their men, and the department which paid for the barracks.

The behavior of municipal representatives is therefore diverse and ambiguous. The city councils call for more staff to enforce the law for the sake of people’s safety.¹⁹ The citizens protest when they start to lose control under the police; on the other hand, the mayors try to maintain control over gendarmerie. This provokes conflicts with the hierarchy of the latter. A general inspector notes with bitterness that ‘a mayor demands that gendarmes must testify against their enemies and never against their friends’.²⁰ According to him, this exploitation would weaken the gendarmerie’s militarism and put it on the path to unfortunate ‘policiarisation’. In other words it could turn into an increasingly policed institution, forgetting at the same time the purpose of its mission, meaning gendarmes would lose their identity. This contemptuous insinuation against the police officers does not tell us anything about these officers expressing similar grievances about similar contexts.

IV. POLICING UNDER THE INFLUENCE OF PUBLIC OPINION

1. Public moods and petitions to claim more security

The typology given so far is incomplete and even one-sided. In fact, there are also situations where the elected representatives are under pressure from their voters to reinforce the police resources already available. Compared to recent news,²¹ we can see that for

¹⁷ ‘Obligations of the municipalities with 5000 inhabitants’ (Journal de la Gendarmerie, 1684 [21 July 1892], pp. 331-332).

¹⁸ AD Côte-d’Or, 20 M 387, Part of the record of proceedings of the municipal council of Nuits-Saint-Georges, 1 June 1892.

¹⁹ APP, DA 448, Deliberation of the municipal council of Levallois-Perret, 17 May 1882.

²⁰ SHD, 701, 4th legion of gendarmerie in Le Mans, General inspection, 1902.

²¹ In the spring of 2018, elected officials, particularly from the suburbs of Paris, complained again about the insufficient police resources in their area. According to politico-police contexts, similar grievances have

more than a century the dialectical central state and municipal powers in France have expressed concerns related to security. To put it simply: too many police would prevent or oppress municipal liberties; not enough of them, would let the communes fall under the control of criminals. The last part of this chapter presents a case which is complementary to the previously described cases. We see the elected officials demanding additional means in the form of police to deal with an increasing and omnipresent threat, such as vagrants, marauders, beggars. The mood of insecurity grows proportionally to the economic crises which are making unemployed people go out into the streets, for example at the end of the nineteenth century, when fears of anarchists mixed with fear of vagabonds. Public opinion becomes an important influence on police organization. At the end of the nineteenth century, the prosecutor in Chinon asked the director of the General Security 'to send a police officer to examine a recent murder committed in Chinon. The Police Commissioner and the Gendarmerie have made every possible effort to find the person who is responsible for the crime.' Approving this request, the Minister of the Interior asks the commissioner to send one of his best men 'because of the general thrill provoked by this crime' although he is aware that it is probably 'too late'²² for that. We see in this case that if the minister considers a procedure futile, he will not agree to answer the needs of the police investigation except in an urgent local context. In short, policing succeeds above all if a certain position is made clear before the police act on the representations of worried or angry citizens.

One sign which adds to the image of suburbs ridden with crime is the petitions calling for the creation of police stations or additional gendarmerie buildings on the outskirts of cities are published by 'faits divers' published in daily newspapers. In December 1898, the General Secretary for the police wrote to the colonel commander of the 14th gendarmerie legion in Lyon to ask him to create a gendarmerie brigade in the suburb of Saint-Fons, following deliberation by the municipal council. The council follows a petition prepared by local communities complaining about the insecurity in their city caused by the lack of the police. The petition is published by the local press who then raises the question of unrest in the suburbs of Lyon, reminding us also of the murder committed in Saint-Fons, less than two years ago.²³

In the same year²⁴ the municipality of Asnières does not demand the establishment of a group of gendarmes, as the municipal council in Saint-Fons had done a few months earlier, but rather calls for the creation of a new police station following a petition of neighboring municipalities:

resurfaced since at least the end of the nineteenth century.

²² AD Indre-et-Loire, 4 M 3, Letter from the Minister of the Interior to the Director of General Security, 17 January 1900.

²³ AD Rhône, R 657, Saint-Fons suburbs inhabitants' petition on the outskirts of Lyon, demanding the creation of a municipal police, March 1896.

²⁴ The case of the serial killer Joseph Vacher is still present in peoples' minds and most probably multiplies this type of request at the time.

*Many depredations are committed every day in this district abandoned by the police. Complaints addressed to the Gendarmerie remained avowedly unanswered, gendarmes are powerless; they cannot watch effectively over a too large area assigned to them. The more we search, the more we find similar opinions expressed inside the Gendarmerie, a police station is required at the site indicated.*²⁵

The creation of such a position and the increase in the number of employees was demanded in 1883 in the ‘Gazette de Neuilly and Courbevoie’. In another Sequanian commune, the commissioner realizes his powerlessness and concedes ‘willingly that the creation of a gendarmerie brigade in this commune [...] would be of real use and would give a legitimate satisfaction to the wish of the municipality and the population [...]. I can only support, in my case, the request of the Municipality of Alfortville.’²⁶

2. When the police pleads for more gendarmes, and vice versa

If, in Asnières and Alfortville, the commissioners support the arguments of the respective municipal councils asking for the arrival of gendarmes in their district, the gendarmes themselves want to multiply the number of policemen in the communes they patrol. During a period of downsizing brigades, the surveillance exercised by the military is diminished and only the Ministry of the Interior can remedy the situation by deploying new forces. Complaints from municipal councils complaining about the insufficient security for inhabitants result in demands for the creation of new police forces or the reinforcement of those already existing in the communes. They multiplied on demand, not only in urban territories. Thus, at the end of the 1900s, the prefect of Haute-Garonne noted that ‘a certain panic has seized our rural population followed by an increasing number of thefts and crimes committed in the region, unfortunately the policemen are infrequent, and so unable to catch the perpetrators.’ His ultimate argument for seeking to have increased police resources at his disposal is that public opinion would be pleased to see that strong measures are being taken to protect countryside areas against the criminals that have appeared due to the harvest deficit and related misery.²⁷

3. News supporting peace and improving police efficiency

The press plays an important role in this context of diverse moods that are creating a particularly delicate situation in the parliamentary republic. Whether at the national, Parisian or provincial level, news is omnipresent in daily newspapers or weekly illustrated magazines. And the press is claiming to be the echo of the citizens, accusing policing methods of being ineffective, outdated, lazy by their nature, unsuitable in terms of equip-

²⁵ APP, DA 446, Record proceedings from the municipal council in Asnières, 18 November 1898.

²⁶ APP, DA 446, Report of the police commissioner in Charenton answering the letter returned by the prefect of the police on behalf of mayor of Alfortville, 11 July 1890.

²⁷ AN, 19940493, art. 27, 415, Police Haute-Garonne department files, General secretariat of the prefecture of Haute-Garonne, Monthly report on the ‘rural police agents contest on the repression of crimes and offenses’, November 1910.

ment, etc. Depending on the context, the police tactics are either considered outrageous – as for example during the siege of Jules Bonnot's two accomplices in May 1912 in Nogent-sur-Marne – or notoriously undervalued – as for example during the strikes of 1910. More broadly, the press usually designate an individual or group accusing them of public vindictiveness, journalists often direct security concerns using people's real or imagined emotions as elements to guide and organize policing.²⁸

Indeed, at the end of the nineteenth century, various waves of fear come together in French society under the influence of the press, the political environment, publicists, novelists and even memorial police. Since the 1870s there had been two important elements present, a fear of German espionage and recidivism. In addition, there is fear of the anarchist attacks of the early 1890s, relayed at the turn of the nineteenth and twentieth centuries, and the fear of rural tramps and 'apaches' in cities against a backdrop of xenophobia. There is intense questioning of public force. Police issues are political issues, and vice versa. The work of the police draws attention to questions about how the feeling of insecurity contributes to the political construction of citizenship and its social representation.

The police are blamed for certain areas being considered less secure than others. Certain social groups are perceived as criminogenic. The press still plays an opinion-forming role. The question remains whether journalists are not actually creating the threat that they are supposedly denouncing? In any case, journalists claim to act in public interest demanding better security as a basic people's right: 'Every day brings us new facts that prove the necessity and the urgency for reforms, we demand security in the suburbs.'²⁹ Journalists blame the insufficient police forces for these misdeeds, others seek the problem in their quality, as many police agents are old and the same goes for the gendarmes, and they also lack the necessary means.³⁰

V. IN SEARCH OF LOST ORDER

1. Crimes everywhere and police nowhere...

Police manpower is perceived as insufficient, as the social demand for safety is a basic need of 'honest people' and it is very often disturbed by the threat which they perceive as proliferating and ever more dangerous. In sum, the growth of crimes would undermine the civilization underpinning the industrial success carried by a positivist philosophy, including the field of public security, as if a golden age of peace had been lost already, or was right in the process of being lost. A southern municipal council mentions the murder of one of the inhabitants in his commune and the arrest of two people who followed

²⁸ López, "Voici les faits qui nous ont paru suffisants", pp. 233-249.

²⁹ Anonymous, 'L'insécurité en banlieue', *La Nouvelle Presse* (22 March 1905).

³⁰ 'It has become usual for inhabitants of suburbs of Paris to point out and experience the lack of security. In the absence of major crimes, it's brawls, nocturnal attacks, burglaries of houses, depredations of all kinds, especially theft of crops that become frequent' (Gibart, 'Le manque de sécurité', pp. 2573-2575).

him, which would have provoked ‘terror among the population.’ Indeed, an alarming report argues in favor of restoring the local brigade of five soldiers:

People dare not go out at night to carry their food to neighboring cities. Many, if not everyone complain about the number of gendarmes that has been reduced, while the criminals are increasing in number and in crimes. What can three or four gendarmes do if they are always occupied with anything but watching over the criminals! Yes, the three gendarmes cannot cope with everything and public safety suffers considerably from these circumstances.³¹

2. When it is no longer a question of maintaining order but of restoring it

There are also situations where the legal order seems utterly flouted, leaving people and the public authorities distraught, in search of restoring order. In a long report, a commissioner of the mobile brigade in Bordeaux relates the difficulties posed by nomads. With four inspectors (about half of the staff), the policeman goes to a fair where, in his own words, ‘gypsies were reported’. Before dealing with this particular case, his attention is drawn to couple of beggars in a Basque commune. The city clerk tells him that they belong to several dangerous families who have been ‘terrorizing the whole region’ for many years. Police have attempted to control their identity cards, but they refuse to show any *documents*, and the incident is also accompanied by obscene gestures. Moreover, these rebels are being joined by their accomplices who attacked the police and start to hit the officers. Facing this group attack, the commissioner asks for help from the gendarmes whose brigade is four kilometers from the incident, especially since the band has attacked them again with sticks and knives. After an hour of struggle, two inspectors and two gendarmes manage to join the police forces which were trying to reestablish order. The criminals escape, after having hurt one of the officers in the arm. The commissioner learns that this group have prospered greatly for many years, because there are too few ‘Gendarmes and they are powerless.’³²

3. Consent of the population, a prerequisite for maintaining order

In this regard, the long sociopolitical tendency to exclude the population from policing by giving public force agents ‘the *monopoly* of the *legitimate* constraint’ was underlined. However, human actions, local realities, conjunctions of circumstances are willingly leaving this global analytical framework. What is policing beyond balancing the power between a crowd and those in charge of maintaining the order? Is it the result of this balance, or it is not rather the output of a conjunctural and empirical co-production? Can policing be exercised in all circumstances? Does the force always remain within the law? One viewpoint is put forward by the Canadian sociologist Jean-Paul Brodeur who op-

³¹ AD Alpes-Maritimes, 5 R 6, Letter from the municipal council of Cagnes-sur-Mer to the sub-prefect of Grasse, September 1st, 1900.

³² AN, 19940493, article 43, 1856, File of the 7th brigade of Bordeaux, Report from the mobile police commissioner Chalmel to the divisional commissioner, chief of the 7th brigade in Bordeaux, 17 April 1910.

posed a vision of police activity as a deployment of legitimate coercion, a vision supported by the Weberians like Egon Bittner or Dominique Monjardet more than by Max Weber himself, who never uses the word police in his works. Brodeur argues that for security forces to maintain order, a minimum degree of pacification of social relations is necessary, as the action of the public force implies a pre-existing regulation of violence. In other words, the maintenance of order cannot be accomplished without the population; without people's prior consent it becomes destruction or even civil war.

The study of an incident which involves both gendarmes and policemen occurred in Saône-et-Loire, at the end of the nineteenth century, it allows us to analyze the above questions. In March 1899, the public prosecutor reports to the Attorney General of the Civil Court of Autun 'a complaint in the form of petition, dressed against the police commissioner of [the city] and the agents'.³³ They are accused of perpetrated violence on the participants in a charivari³⁴ 'against a widow [...], who wanted to get married'. The magistrate says that 'proportions of this event exceeded the expectations. The commissioner and their [sic] agents who went to the scene were overwhelmed and had to call upon the gendarmerie. The crowd was very excited, they booed gendarmes and agents. Many reports were drawn up and sent either to the police or to the criminal court as a result of the outrageous conduct that the gendarmerie experienced. The police *took* the unusual step of seeking *leniency upon the outrages committed* against the agents and used the minimum coercion required by the circumstances. This is fully confirmed by the gendarmes, and all the good faith witnesses interviewed during the investigation by Special Commissioner Vierrou. Evidence given by witnesses was unanimous'.³⁵ In their report, Autun brigade gendarmes certify that they did not see the police commissioner or his agents exert any violence during the charivari incident. They write:

*When we arrived, the Commissioner of the Police was surrounded by the crowd, he was calm and behaving advisedly despite the excitement of hundreds of people. Nobody complained to the gendarmerie about being brutalized by the municipal police and we heard no rumor accusing the police of having done anything other than their duty [...]. Just like the police, we were the object of insults from distant groups of people, we heard words like: 'Go to hell cops! Go to hell gendarmerie!' [...]. In our opinion, if we had not intervened in this case, on the requisition of the Police Commissioner, it could have turned bad for to the police.*³⁶

³³ AD Côte-d'Or, 2 U 232, Letter from the public prosecutor to the Attorney General of the Civil Court of Autun, 10 March 1899.

³⁴ 'Charivari is the most effective way to force the deviant to give up his project [...]. If the transgression is considered minor, the charivari lasts only a few moments; if it is considered more important, it may extend over a week; if it is interpreted as a serious breach, it may not know limits and impose the arrival of gendarmes to put an end to the actions of the village' (Chauvaud, *De Pierre Rivière à Landru*, pp. 50-51).

³⁵ AD de la Côte-d'Or, 2 U 232, Letter from the Public Prosecutor to the Attorney General of the Civil Court of Autun, March 10, 1899.

³⁶ AD de la Côte-d'Or, 2 U 232, Report from the marshal of the Autun's brigades commander to Public Prosecutor, 27 February 1899.

The Police Commissioner, meanwhile, says he applied ‘[s] all means possible to maintain order and prevent any demonstration against personal freedom.’ In the cabaret, where the commissioner and his agents went to keep warm, the police attend the rally of ‘800 to 1000 people’: ‘We summoned everyone to disperse, but nobody has taken into account our requests.’ On the contrary, the police quibbles:

Finally, seeing us powerless to overcome the resistance of all these demonstrators [we emphasize], I sent the police officer Berthault to notify the Commander of the gendarmerie so they could send me all his gendarmes available. About half an hour afterward three gendarmes [...] arrived and helped us to disperse the crowd. It was then that several individuals shouted: ‘Take away the cops! Take off the gendarmerie!’ Then they run away, but two of these disruptors were arrested for insulting the gendarmerie. The gendarmes left the place and took the prisoners and we remained alone to proceed the maintaining of the order. It was not until about half-past eleven that we were able to leave the premises, having returned to the normal state.³⁷

This episode justifies the long transcript; first, because it reveals the forced relationship between police and gendarmes in their policing efforts which has already been explained. Secondly, if the force has certainly remained with the law, it was at first violated: the policemen must give up exerting their authority, which represents a failure that the public prosecutor conceals while congratulating the discernment and the calm of a commissioner for having used the ‘minimum of coercion’. Could the behavior of the three policeman be different as they were probably unarmed, in front of a crowd of several hundred angry people?

Contrary to the commissioner’s report, which gives the impression of calm being quickly restored, the report of the chief of the sergeant-general states that the gendarmes had to remain on the spot for about three more hours, because of the ‘the crowd excitement’. ‘Furthermore, the excitement lasted several days’ and the soldiers ‘had to return to Saint-Blaise during the evenings of 17, 18, 19, 20, 21 and 22 February to prevent the disorder revival’.³⁸ While the presence of unarmed police officers seems to have no effect on the crowd, the help of gendarmes turns out to be decisive. It is therefore the presence of armed soldiers who are likely to use all the violence permitted by the regulations that seems to allow the return of peace. But the threat of the use of force is not the use itself and the troubles remain for nearly a week; policing becomes possible again when the agitation ceases on its own, precisely because legal coercion has not been used.³⁹ The example of powerlessness of the police and compromised maintaining of the order is not rare. It perfectly sums up the weak points of the municipal police and the national gendarmerie,

³⁷ AD de la Côte-d’Or, 2 U 232, Report from the Autun police commissioner to the Public Prosecutor, 25 February 1899.

³⁸ AD de la Côte-d’Or, 2 U 232, Letter from the Public Prosecutor to the Attorney General of the Civil Court of Autun, 27 February 1899.

³⁹ Aurélien Lignereux tries to answer the question of how in certain situations, ‘authority derives from a free will, which excludes the use of coercion’ in his article ‘La force morale de la gendarmerie’.

allowing them to assume their relative role of force in maintaining order: if their partnership is dictated by the law it is, more surely, simply necessary.

VI. CONCLUSION

Max Weber defined the state as a 'political enterprise of an institutional character' that 'claims, the application of the regulations, the monopoly on legitimate physical violence'.⁴⁰ Retained today as a classic definition, we have seen here precisely that the maintenance of order as it is exerted at the end of the nineteenth century in France tends to get rid of more and more of its violence, trying to become more controlled, constrained, leading to a formalized preoccupation in true doctrine during the summer of 1930.⁴¹ Note that in 1961, even though that year marks one of the bloodiest periods in the war in Algeria in terms of the forces of the order, a similar concern was expressed at the highest level of military authorities⁴², evoking the long-standing trend of declining intensity and number of police violence. And if murderous episodes do exist, they make us forget that most of the time the maintenance of order happens without force, using Victor Hugo's term by 'denervated' means (orig. *dénervé*). The appreciation of Julien Freund appears much more enlightening to understand what is at stake: 'There is no state without force, but a really strong state is the one which succeeds in concealing this force in peaceful forms like mores and institutions that do not have to intimidate or threaten their members. The constraint becomes almost insensitive, because legality coincides with legitimacy, power being a guarantee of security [...]. In this sense, strength is an insurance against violence'.⁴³

The monopoly on policing being reserved for specialists not yet specialized persisted until the appearance of a mobile gendarmerie in 1921 and in fact excluded the role of the population in the matter.⁴⁴ Consequently, people found another means of participation through the press or the elected representatives, or by proxy in some way. In modern France, the idea of the National Guard has not only re-emerged, driven by the ter-

⁴⁰ Weber, *Le savant et le politique*.

⁴¹ 'It is advisable to appease the excited masses of people by the use of more peaceful means than by fire. One can imagine, for example, the extended use of tear-gas products, sound means, to be heard by people and to give them clear instructions to calm down; possibly, for the night, luminous means able to blind the population, without really hurting her' (SHD, GR 1 R 96-1, file 5, Note of the division 'Organization' of the state – joint commander to the military chief of staff on a 'draft decree to increase the heavy weapons staffing of police personnel', signed by Air Corps General Martin, Chief of State – Major of the Armies, 14 July 1961).

⁴² 'Just as it is right to quiet and harmonize the *excited masses*, it is better to use more peaceful means than fire. One can imagine, for example, the development of tear-gas means products, the use of suitable sound means so the people can hear clearly the instructions to calm down, possibly, at night, luminous means able to blind the population, without really hurting it' (SHD, GR 1 R 96-1, file 5, Division note 'Organization' of the Joint Staff for the Military Chief of Staff on a 'Projet de décret tendant à augmenter la dotation en armement lourd des personnels des forces de police', signed by Air Force General Martin, Chief Staff Staff, 14 July 1961).

⁴³ Freund, *Qu'est-ce que la politique*, pp. 131-132.

⁴⁴ Houte, 'Policiers de bonne volonté', pp. 159-170.

rorist context, but has been achieved in pursuance of the ideas of François Vidocq from almost two hundred years ago, who praised the bourgeois guard: ‘What would be a better guarantee than the continual presence of a bourgeois guard watching and acting incessantly under the auspices of legality and honor? Do we replace an institution so noble, so generous by a shaky police?’⁴⁵ Re-appropriation of the police by the population, or the opposite?

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⁴⁵ *Mémoires de Vidocq*, p. 441.

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Snitches and Informers. Popular Involvement regarding the 'High Police' under the Consulate and the First Empire (1799-1815)

Jeanne-Laure Le Quang

*A Frenchman who conspires tells so many people that he does, that it would be really extraordinary if, in the number of his confidants, he did not meet a 'friend of the Minister or the Prefect of Police. The real political police, in our country, is the unofficial police, the police of conversation and indiscretion.'*¹

This excerpt from the Memoirs of Pierre-François Réal, one of the main police chiefs under the Consulate and the First Empire, invites us to consider the place occupied, in terms of political police, by persons other than just official police officers. Napoleon Bonaparte's first Empire is often presented as a police or authoritarian state.² However, several recent studies have undermined the idea of a dictatorial regime that would impose itself from top to bottom, by studying the different attitudes of the French towards the regime. Natalie Petiteau and Aurélien Lignereux have demonstrated that Napoleonic society is neither unanimously rallied behind the Emperor, nor uniformly silent or apathetic.³ They pointed out that some latent opposition persisted throughout the period, from 1799 to 1815. However, at the same time, we can also see the active participation of a significant part of the French in the regime's security policy. The hypothesis we propose to examine here is therefore to consider the maintenance of order 'at ground level', noting how much this Napoleonic 'police system' was based on significant cooperation from civil society. It is therefore a question of dispelling the myth of a police force that would operate univocally, oppressively, on a submissive and silent society.

The Napoleonic police relied on the participation of part of the population in the 'high police' ('haute police'), that is, in order to eradicate any threat to State security, and thus guarantee the survival of the regime and its leader, Napoleon. As during the Ancien Régime, the Napoleonic police used members of civil society to ensure effective preventive surveillance: snitches, or other secret agents. However, the central place occupied by Vidocq's character in the legend surrounding the Napoleonic police, until today, should not obscure the existence of a more punctual participation in the maintenance of order and in this 'high police' surveillance of voluntary, unpaid individuals. We can therefore

¹ Réal, *Les indiscrétions*, p. 2.

² Brown and Miller, *Taking Liberties*; Brown, *Ending the French Revolution*; Hicks, 'The Napoleonic police'; Sibalis, 'The Napoleonic Police State'.

³ Petiteau, *Les Français et l'Empire*; Lignereux, *La France rébellionnaire*.

postulate a two-tiered popular participation in police surveillance: on the one hand, an occasional and voluntary, almost 'spontaneous,' participation by anonymous individuals, and on the other hand, a more sustainable and explicitly paid participation by the police, that of the snitches.

In what way did the people seized the 'political' police and the question of suspects under the Empire? Was this popular participation in police surveillance a sign of the active support of part of the population for a strengthening of the weight of the police, and thus, for a restriction of individual freedoms? What were the links of these individuals with the official police? And finally, how did this active public aid question at the same time the possible instrumentalization of police practices by the population itself?

I. FOUCHÉ'S SNITCHES: FROM FANTASY TO REALITY

The myth surrounding the Napoleonic police refers to a massive use of snitches, whose archetypal figure is embodied by the character of Vidocq, a former convict who became the head of a secret police force – called 'Brigade de Sûreté' (security brigade) – made up of former prisoners, who disguised themselves to avoid recognition and infiltrate criminal circles.⁴ Several Memoirs published at the Restoration, by Napoleonic police chiefs but also by former opponents, mentioned the idea that when three or four people were discussing, there were always ears to hear, and report the statements to the police.⁵ This myth feeds an entire imagination forged around the Underworld, which could only be penetrated and understood by men from and belonging to these environments, and not by 'traditional' police officers.⁶ Paradoxically, this legend is not retrospective, but has been deliberately created during the Consulate and the Empire. The Napoleonic police had an active policy of playing on emotions, aiming to build a reputation for omniscience, insisting on the supposed extent and severity of police surveillance. Affirming that 'in itself, the police is only an occult power, whose strength lies in the opinion it knows how to give of its strength; then it can become one of the state's greatest resources',⁷ Joseph Fouché insisted in his Memoirs on the way in which he 'administered much more through representations and apprehension' than through real coercive means.⁸ This rhe-

⁴ Vidocq has been the subject of a large literature since the 19th century (where it inspired the characters of Javert in Hugo's work and Vautrin in Balzac's work), and then of a very abundant filmography. It has been the subject of a few scientific publications: Parinaud, Vidocq; Roy-Henry, Vidocq; Giraudet, François Vidocq.

⁵ 'It is certain that I had the ability to spread and make it appear that wherever four people gathered, there were, in my pay, eyes to see and ears to hear.' Fouché, *Mémoires*, p. 221. See also Réal, *Les indiscretions*, pp. 349-350; Bertier, *Souvenirs inédits*, p. 129.

⁶ Kalifa, *Les bas-fonds*, pp. 9-15 and 52-68.

⁷ Fouché, *Mémoires*, p. 404.

⁸ Fouché, *Mémoires*, p. 221. Jean-Paul Brodeur, however, underlines the continuity of this rhetoric, aimed at creating a fear 'disproportionate to the material importance of the police apparatus they led', from the first police lieutenants of Paris, Argenson and Sartine, to Fouché. Jean-Paul Brodeur, 'La police: mythes et réalités', pp. 26-27.

toric of instrumentalizing fears thus contributed, in the end, to strengthening the foundation of the Napoleonic regime, by creating the illusion of its solidity.

Faced with the persistence of this myth of the omnipresence of police snitches, it is necessary to try to understand precisely how the police relied, in terms of 'high police', on unofficial, secret and non-professional agents.⁹ As Hugues Marquis points out, legend has it that the police in Fouché used 10,000 snitches for the whole of France, to which should be added 5000 snitches for Paris.¹⁰ This reality is most likely exaggerated. Nevertheless, it is difficult to find these unofficial police personnel in the archives. Informers wrote under a pseudonym, or were identified only by the first letter of their name, and the police generally did not keep originals. Their reports were transcribed, disappeared from the archives or were dispersed in different files. Each informer had only one contact with one agent, usually the one who recruited him.¹¹ Finally, it seems proven that Fouché, Minister of Police from 1799 to 1810, burned his lists of indicators at the time of his disgrace and his replacement by Savary, to force his successor to rebuild his own networks.¹²

Nevertheless, it can be estimated that about 200 to 300 snitches were employed by the Napoleonic police in Paris. The only list of snitches kept in the police archives was compiled in 1799 by a police officer, Louis-Charles Dupérou, who betrayed his administration for the benefit of the royalists, by retrieving a list of all snitches employed by the police.¹³ The list included 253 police informers or indicators. Other sources, in particular the expense accounts of Parisian peace officers, which sometimes mention the remuneration of secret agents, make it possible to estimate that the total number of secret agents employed throughout Paris in 1804 would be about 130 secret agents, less than half of Dupérou's 1799 list¹⁴. The legend of a Paris with 5000 bugs is therefore very much exaggerated.

These unofficial police officers were primarily used for missions that fell within the scope of the 'high police', such as surveillance, information gathering or undercover operations. These were therefore preventive missions, not investigations conducted after a proven crime. It is in this sense that Fouché referred to snitches as 'mobile phalanxes of observers'.¹⁵ As Dupérou's list reveals, snitches were recruited from all social backgrounds, from the most disadvantaged (cabaret owners, wine merchants, servants) to

⁹ The use of snitches by the Napoleonic police has been the subject of several studies, often ancient, most often focusing on the biography of a specific snitch. D'Hauterive, *Mouchards et policiers*; Blanc, *Les espions de la Révolution et de l'Empire*; and Madame de Bonneuil; Pingaud, *Un agent secret*; Douay and Hertault, *Schulmeister*. From an anthropological perspective, we can also mention Alain Dewerpe's study on the spy and the political uses of secrecy. Dewerpe, *Espion*, p. 15.

¹⁰ Marquis, *Agents de l'ennemi*, p. 126.

¹¹ Brunet, *La Police de l'ombre*, pp. 8-9.

¹² Lentz, Savary, p. 245.

¹³ AN F7 6247. Madelin, Joseph Fouché, pp. 401-402.

¹⁴ AN F7 3183, 'Frais de surveillance par des inspecteurs et autres agents', second division, germinal-fructidor an XII (March-September 1804).

¹⁵ Fouché, *Mémoires*, p. 221.

the nobility.¹⁶ In the case of the most popular social strata, the permeability of the border between suspects and snitches, between offenders and unofficial police officers, was very high.¹⁷ Pierre-François Réal referred in particular to these flies as ‘marauders [‘gens sans aveu’] [...] whom the police of the Prefect of Police monitor when they do not use them’.¹⁸ Among these, the figure of the ‘sheep’, in other words the prison snitch, is frequently distinguished in the archives, revealing the use of certain prisoners as indicators, most often on an occasional basis, but sometimes more regularly.¹⁹ The surveillance carried out by these unofficial agents from a popular background was sometimes targeted at a specific individual, subject to police suspicion, and sometimes extended to the surveillance of a given geographical area, in order to accumulate information, and to identify possible suspicious movements. In Dupérour’s list of 1799, we find Gilbert Cordier, shoeshine boy at the Palais-Royal, Lecompte, ‘snitching on small theatres’, Morelli, ‘snitching on gambling houses’, or Jacotot, apple merchant pretending to be crippled, in charge of studying the walkers of the Palais-Royal.²⁰ The rumors circulating in the cafés were carefully noted, especially everything concerning the news of the army, in order to stop any defeatist news.²¹

These snitches were also responsible for searching for, monitoring and even arresting ordinary criminals – thieves, beggars, vagrants, etc. Thus, out of a list of nine ‘secret agents’ – five men and four women – employed in January 1808 in a Paris police division, eight were paid for their contribution to the search for and arrest of thieves, counterfeiters or former convicts.²² This task reveals the permeability of the border between political control and social control in the area of ‘high police’. Although the surveillance, by means of snitches, of these ‘dangerous classes’ was part of an ‘ordinary’ social control, it was not without political stakes: it was a question of purging Paris of individuals considered undesirable or dangerous for the tranquillity of the society. It was also part of an effort to depoliticize expressions of opposition to the regime.

In addition to these informers from working class backgrounds, who were generally paid between 12 and 24 pounds according to the expense records kept²³, there were

¹⁶ This list divided the snitches employed by the Parisian police into three classes, from the most disadvantaged, employed on an occasional basis, to the greatest nobles, who received a regular salary.

¹⁷ For example, a police report said: ‘On the loose on surveillance if he refuses to serve: Eyseman, leader of a gang of fraudsters, confessed, he can be used as a secret agent’. Bulletin of Wednesday, 9 May 1810, d’Hauterive, *La police secrète du premier Empire*, t. 5, p. 395.

¹⁸ Réal, *Les indiscretions*, p. 223.

¹⁹ AN F7 3183, ‘Frais de surveillance par des inspecteurs et autres agents’, second division, germinal-fructidor an XII (March-September 1804). Jacobin opponent Eve Demaillot also mentions ‘sheep’ in his pamphlets. Demaillot, *Tableau historique*, pp. 83-91.

²⁰ AN F7 6247. Madelin, Joseph Fouché, pp. 401-402.

²¹ See for example AN F7 7012, Dubois to Fouché report, 14 fructidor year XII (1st September 1804); AN F7 3180, Report of Lemoine, 26 brumaire an XII (18 November 1803); d’Hauterive, *La police secrète du premier Empire*, t. 4, bulletin of Tuesday 30 August 1808, p. 344; and bulletin of Wednesday 31 August 1808, p. 346.

²² AN F7 3191, ‘compte de l’an 1808, mois de janvier. Dépenses, frais d’officiers de paix, inspecteurs et autres agents de surveillance’.

²³ AN F7 3183; AN F7 3191.

also snitches from noble backgrounds. These noble informants were used by the police on a much more regular basis, and received monthly salaries – rather than one-off salaries – much higher.²⁴ Among them were first and foremost many former chouans or former emigrants, whose services to the police – spying on royalist circles or on abroad – enabled them to avoid a death sentence or a long prison sentence.²⁵ But the police use of nobles from the highest lineages can also be attested, as revealed by the attentive listening of conversations in the Parisian salons.²⁶ The bulletins of the Ministry of Police sent daily to Napoleon regularly reported the rumors circulating in these salons.²⁷

To this 'passive' role of listening and surveillance in public places or closed spaces – from the tavern to the salon frequented by the nobility – was finally added an 'active' role, in the form of a hidden propaganda activity. The snitches were responsible for influencing public opinion, by instilling opinions in favour of the regime, in the cafés and salons where they operated.²⁸ A secret agent wrote in a report that he mistakenly believed that a man he was in charge of supervising was himself a secret agent, because he expressed opinions so favourable to the government that they seemed 'exalted'.²⁹ In his memoirs, Fouché also mentioned his 'three hundred Paris regulators' in charge of 'mastering' the 'salon talks'.³⁰ This close intertwining between control and the spread of rumours shows the central place of snitches in the process of shaping public opinion, thus participating in a 'fabrication of consent' that seemed to be one of the central aspects on which the Napoleonic regime was based.

Of course, the police were persistently suspicious of these snitches, and were not fooled by the amplification or even invention necessary to justify a regular salary.³¹ The snitches were frequently arrested and briefly detained, but also sent to controlled residence.³² Nevertheless, a few rare snitches experienced an exceptional social rise during the Empire. This is particularly the case of Pierre-Hugues Veyrat, a watch merchant and then pawnbroker, who informed the police from 1797, before being promoted, after the 18 fructi-

²⁴ According to Ernest d'Hauterive, the royalist informer Rochejean received an initial sum of 6000 francs 'as a starting point', then was paid 1500 francs per month – a sum that corresponded to his high social status. D'Hauterive, *Mouchards et policiers*, p. 135. Réal also mentioned the remuneration of a lady from the aristocracy for 1000 francs per month, and the Duke of Aumont for 24,000 francs per year. Both were in charge of spying on Louis XVIII's court in Hartwel. Réal, *Les indiscrétions*, pp. 161-163.

²⁵ Fouché claims to have defeated the chouannerie by this means. Fouché, *Mémoires*, p. 98-99. See the journeys of Philippe-François Rochejean or Jean Marie Édouard de L..., retraced by d'Hauterive, *Mouchards et policiers*, pp. 110-160.

²⁶ On the other hand, the use by the police of Empress Josephine herself, or other high nobles close to Napoleon, such as Bourrienne, traditionally mentioned, cannot be attested by any archival evidence.

²⁷ D'Hauterive, *La police secrète du premier Empire*; Gotteri, *La police secrète du premier Empire*.

²⁸ Jean-Paul Brodeur has shown how 'the exacerbation of insecurity through the spread of rumours is [...] a striking feature of the use of informants by the police'. Brodeur, *Les visages de la police*, p. 250.

²⁹ APP Aa 270-1, doc. 71, note for the Prefect of Police, [undated].

³⁰ Fouché, *Mémoires*, p. 246.

³¹ Réal, *Les indiscrétions*, p. 1.

³² AN F7 3027. A file of 'arrests and surveillance' dating from 1800-1801 contains, out of about fifty individuals sent under controlled residence (called 'surveillance spéciale'), several former police officers. The royalist snitch Rochejean was also arrested in 1808 and from 1813 to the end of the Empire. D'Hauterive, *Mouchards et policiers*, p. 135.

dor (4 September 1797), to Inspector General at the Ministry of Police, then at the Préfecture de Police of Paris. He kept this position from 1802 to 1814, having under his command the 24 peace officers of the capital.³³ Another example is Jean-André François, a royalist agent linked abroad, who was first under surveillance and detained in the Temple in 1797, before collaborating with Veyrat from the prison in 1799 and obtaining a position of trust in the Ministry of Police : the drafting of the daily bulletin addressed to Napoleon, which compiled the various police reports arriving from all over France. He kept this position until the fall of the regime in 1814.³⁴ While these two individual trajectories are obviously extremely rare, they testify to the blurred and permeable borders between official and unofficial police under the Consulate and the Empire. This deliberate vagueness was maintained with a view to achieving greater effectiveness in political surveillance.

II. AN IMPORTANT 'CIVIC DENUNCIATION'

However, in addition to these unofficial agents regularly employed by the Parisian police, there was an indefinite number of occasional police informants, who escape any quantification. In most cases, this voluntary popular participation offered to the police took the form of a letter of denunciation.³⁵ This important place of denunciation appears as a legacy of the Revolution. During the years 1789-90, with the realization of the fragility of a Revolution perceived as surrounded by threatening enemies, the authorities showed a new encouragement for citizens to denounce.³⁶ The denunciation was justified by the imminent danger of the collapse of the Revolution, which made it possible to legitimize the resurgence of the use of police 'observers' who symbolized the Ancien Régime and its opaque practices, while the Revolution promoted transparency as a value. Thus the distinction appeared between 'délation' – an act with a negative connotation, which would be driven by personal or unfair interests, synonymous with treason, which would harm society by undermining its cohesion – and 'dénonciation', which took on a completely positive value, by becoming a true act of civic virtue and duty.³⁷

³³ However, Veyrat was briefly dismissed several times for his involvement in misappropriation cases. Tular, *Dictionnaire Napoléon*, article 'Veyrat'; d'Hauterive, *Mouchards et policiers*, pp. 141-170.

³⁴ D'Hauterive, *Mouchards et policiers*, pp. 144-154; Marquis, *Agents de l'ennemi*, p. 200-203, et Montarlot, 'Un agent de la police secrète', pp. 1223.

³⁵ Jean-Paul Brunet establishes a similar typology for the 20th century between 'denunciation and more or less voluntary help', 'occasional indicators' and 'regular indicators from the community', practising 'entryism'. Brunet, *La Police de l'ombre*, pp. 32-53.

³⁶ Fitzpatrick and Gellately, 'Introduction to the Practices of Denunciation', p. 750; Lucas, 'The Theory and Practice of Denunciation', p. 769.

³⁷ This distinction has existed since the publication of Diderot's *Encyclopédie ou dictionnaire raisonné des sciences, des arts et des métiers*, but it was introduced into current language around 1792. Lucas, p. 763 and 774. According to Virginie Martin, the new virtuous 'citizen-denouncer' had to act – unlike the snitch of the Ancien Régime – according to three criteria: 'gratuity' (he was not remunerated), 'disinterestedness' (he acted in the name of the general interest, not for his own benefit), and 'spontaneity'. Martin, 'La Révolution française ou „l'ère du soupçon"', p. 133.

The Consulate and the Empire, inherited this culture of denunciation, and also erected it as a civic virtue, because it would represent a gift of self to the country – in the same way as being a soldier. While the Empire was almost constantly at war with its neighbours, each citizen, by bringing the little knowledge at his disposal, could help to save the State from its enemies.³⁸ The police authorities explicitly called on the population to actively participate in policing and thus contribute to the survival of the regime. Two weeks after his appointment as Minister of Police, Fouché made a declaration to the French citizens which ended with a real call for denunciation:

*I have made a promise to restore inner peace, to put an end to the massacres and oppression of the Republicans, to stop the plots of traitors and to abduct abroad up to the hope of an accomplice. Help me, citizens, in this honourable task. Support me with your zeal, surround me with your patriotism, and may this collaboration of citizens and magistrates be the sure sign of the Republic's triumph.*³⁹

With this proclamation, printed in thousands of copies, Fouché intended to reactivate the collaboration between police and citizens established during the Revolution, based largely on the practice of denunciation. The Prefect of Police of Paris Dubois had a similar attitude when he took up his fonctions. Five days after his appointment, he concluded his first proclamation to the Parisians by declaring: 'so help me with your lights and your zeal. If I assure your rest, I will not regret my waking hours.'⁴⁰ This place of denunciation at the heart of relations between police and citizens was also legalized by the important work of codification undertaken under the Consulate and the Empire.⁴¹ The 1810 Penal Code participated in the institutionalization of denunciation, introducing severe penalties for failure to denounce crimes against state security, and offering exemptions from punishment for denunciators... but also providing measures (ranging from fines to imprisonment) against 'slandorous denunciations'.

As a result of this active encouragement by the authorities, it can be said that the Consular and Imperial period was the time of intense use of denunciation. Most of the letters denounced precisely identified individuals, and concerned demonstrations of hostility towards Napoleon Bonaparte himself. The letter of denunciation written against a man named Pigenat Lapalun in 1809 is an archetypal example.⁴² The denouncer, named Nourrier, reported the hateful remarks about Napoleon that this man made the day before

³⁸ However, the rise of denunciation should not be seen as the 'only result of political will', of a call for denunciation from the authorities, since the population chooses whether or not to cooperate. Charageat and Soula, *Dénoncer le crime*, p. 11.

³⁹ Proclamation by the Minister of the General Police to French Citizens, 16 thermidor year VIII (4 August 1800), quoted by Madelin, Fouché, p. 226.

⁴⁰ Proclamation of Dubois to Parisians, 25 ventôse year VIII (15 March 1800), quoted by Rigotard, *La police parisienne de Napoléon*, p. 46.

⁴¹ In the continuity of the revolutionary legislation (Sieyès 'grande police' law of the 1er germinal year III, and Code des délits et des peines of the 3 brumaire year IV).

⁴² APP, Aa 317, letter of 26 August 1809. This letter was addressed to an unidentified 'general', but came into the hands of the Prefect of Police Dubois, who himself reproduced it in a report to the Minister of Police on 9 September 1809.

in his home. The whole letter first explicitly presented the denunciation as an act of civic duty, in order to justify the denunciation of a close friend. Indeed, the letters of denunciation kept for the period almost always included a deep concern for moral justification on the part of the denunciator. The very content of the denunciation against Pigenat Lapalun, for example, was framed by the justification that the denouncer gave to his act. The letter began with these words: 'General, I hasten to take another opportunity to prove to you my zeal for the interests of our August Sovereign and for public order'. The conclusion of the letter repeated the same rhetoric: 'I hand him over to your supervision and I am happy to have fulfilled, once again, my duty to a sovereign so worthy of our esteem and love'. The denunciation, then, took on the appearance of a selfless act, symbol of total adherence to the regime and boundless devotion to Napoleon.

While the First Consul wanted a return to order and the elimination of all factions, the act of denunciation was proof of patriotism, making it possible to make oneself unsuspected. By describing the person he denounced as a 'monster', the informer could thus appear by contrast as a model and virtuous subject, and avoid becoming a suspect himself in the eyes of the police. This is evidenced by the rhetorical insistence he placed on clearing himself of the remarks he was reporting, showing that he did not share them in any way. He even apologized twice for having to repeat them: 'Convinced that you will excuse the need, where I am, to report to you his horrible and revolting words', 'Once again, General, please excuse me; the truth is that I have to put these infamous insults and shouts on paper'.

But above all, the letter of denunciation against Pigenat-Lapalun – like others – seemed to have truly integrated police vocabulary, particularly in the detailed physical description of the individual denounced, closely resembling the reports issued by the police. Finally, it revealed an integration of police concerns regarding the 'high police'. The denouncer, by reporting the 'insulting' remarks, was referring to a whole combination of the elements most likely to interest the police and lead to the arrest of the denounced: direct threats to the Emperor's person – called 'villain, scoundrel, whoremonger [...], that damn scamp, that damn Corsican', and adding 'he must perish, and he will perish' –, pessimistic news about military campaigns, and the emphasis that it was not an isolated disgruntled person, pointing to the existence of rallies of royalists, potentially preparing for a possible plot. While it is impossible today to distinguish between truth and slander in this letter of denunciation, the undeniable mastery of police rhetoric by the whistleblower may give rise to the suspicion that this individual was attempting to instrumentalize the police in the service of his own interests.⁴³

Indeed, whether implicitly or more openly, a number of these voluntary 'high police' aids reveal a partially interested act on the part of the denouncer.⁴⁴ Some letters of denun-

⁴³ Martine Charageat and Mathieu Soula evoke in the same manner the way in which, since the Middle Ages, denunciations made before the courts had to adopt a particular language, in order to promote the success of the case, which implied knowing, even briefly, the codes of justice. Charageat and Soula, *Dénoncer le crime*, pp. 15-16.

⁴⁴ Of course, this is not a particularity of denunciations under the Consulate and the Empire. Fitzpatrick

ciation requested a reward, most often of a monetary nature, in exchange for the information provided. The police offered rewards for revelations after each conspiracy. In his *Memoirs*, Fouché stated, with regard to the royalist conspiracy of Cadoudal and Pichegru in 1804, that he '[had] soon, in fact, by the mere beginning of a reward of two thousand louis, all the secrets of Georges' agents, and I was put on their trail'.⁴⁵ These individual requests for rewards can be seen throughout the period, asking for example for reimbursement of expenses that the whistleblower would have incurred in order not to lose the denounced person's traces.⁴⁶ But the expected reward could also be a job in the police or *gendarmerie*⁴⁷, a title or a decoration. For example, a man named Félix Macaux solicited the 'star of the Legion of Honour' for having 'denounced and led to the arrest' of a man named Robert, who, in a cabaret, had 'announced the project to attack the days of the savior of France'.⁴⁸ Finally, the whistleblower's interest could lie in the elimination of a person, or a group, with whom he felt enmity, both politically⁴⁹ and personally.⁵⁰ The denunciations could also be part of 'localist' tensions, between two cities or two districts, as evidenced by an anonymous letter addressed to the Police Commissioner in Versailles stating that the attack on the 'Infernal Machine' had been 'directed by the inhabitants of Versailles,' out of hatred of Parisians.⁵¹

Studying denunciation as an act partly driven by personal interests therefore makes it possible to relativize the univocal idea of a population 'victim' of 'high police measures', and to reverse the perspective. While the police system was therefore founded in part on cooperation between the police and the population, based on voluntary assistance from the latter, it appears that part of society had sufficiently internalized police thinking patterns, what for the police was part of the suspicion register, to be able to use them for their personal benefit. It was a reversal of the balance of power between police and citizens, an instrumentalisation of the former by the latter, which could therefore take place: some denunciators could have individuals arrested by giving them the appearance of the police suspect, by speaking the police language, by using the concepts forged by it, which shows how the state could be 'internalized' by citizens.⁵²

and Gellately, 'Introduction to the Practices of Denunciation', pp. 757 and 762-763.

⁴⁵ Fouché, *Mémoires*, p. 167. Similarly, during the attack on the 'Infernal Machine' in 1800, a list mentioned the names of the people the police paid to find one of the conspirators, Carbon. APP, Aa 278.

⁴⁶ AN F7 3183, letter from Bertrand to the Prefect of Police, 5 prairial year XII (25 May 1804).

⁴⁷ APP Aa 270-1, document 33.

⁴⁸ AN F7 7012, Félix Macaux's file, letter from Dubois to the Minister of Police, 3 June 1806.

⁴⁹ APP, Aa 281, document 272, Undated anonymous letter denouncing the 'scoundrels of septembrisers and jacobins'.

⁵⁰ A prisoner named Desforgues claimed to have been denounced by a man who divorced his wife because of him. AN, F7 6267, Desforgues' file, letter from Desforgues to the Minister of Police, 28 ventôse year IX (19 March 1801).

⁵¹ APP, Aa 281, document 102, anonymous letter to the citizen Pille, Police Commissioner in Versailles, 11 nivôse year IX (1st January 1801).

⁵² Fitzpatrick and Gellately, p. 763. See also Brodeur and Jobard, *Citoyens et délateurs*.

The police were of course not fooled by these attempts at citizen instrumentalization – just as they were wary of regular indicators, described by Fouché as ‘often dubious instruments’.⁵³ Pierre-Marie Desmarest – the chief of the secret police at the Ministry of the General Police – mentioned in his memoirs the police mistrust of these letters of denunciation and referred to conspiracies and denunciations as ‘two plagues that multiply one by the other’.⁵⁴ He also deplored the large number of slanderous denunciations received by the Ministry of Police.⁵⁵ As a result of this police mistrust, the reported facts seemed to be fairly systematically verified. Several individual surveillance files concerning suspicious individuals testify to the police investigation following a denunciation.⁵⁶ Nevertheless, these denunciations, once verified, constituted a central tool used by the Consular and Imperial police in the area of ‘high police’, in two ways. They were first of all the frequent starting point for placing an individual under surveillance, thus becoming a suspect, or the origin of the intensification of the surveillance of an already known suspect. They could also form the basis for a detention by ‘high police measure’ – that is, without going to court. This was the case of Pigenat-Lapalun, arrested the day after his denunciation.⁵⁷

Many letters from detainees by ‘high police measure’, sent to the Senate Committee on Individual Freedom (‘Commission sénatoriale de la liberté individuelle’) – an institution that was supposed to guarantee citizens against arbitrary detention – claimed to be victims of slanderous denunciation.⁵⁸ For many of them, it was probably an additional rhetorical argument to claim their innocence, and not necessarily reality. However, the very fact that denunciation was an argument that was so frequently considered to be put forward is indicative of the very importance of the existence of this practice at the time.

In addition, the police made even more intensive use of these letters of denunciation in a conspiracy context. In 1800, for example, in the few days following the explosion of the ‘Infernal Machine’, which almost killed Bonaparte but exploded, killing 22 people and injuring around 50, the police investigation involved a central task of collecting testimonies and denunciations, in particular by distributing the reports of the conspirators and their equipment in the press or on posters, with a promise of a reward for giving information to the police. The police asked also the health officers to inform the police commissioners of the injured individuals they had treated on that day, hoping in this way to find possible accomplices on the run.⁵⁹ As a result of these active police incitements, the

⁵³ Fouché, *Mémoires*, p. 92.

⁵⁴ Desmarest, *Témoignages historiques*, p. 24.

⁵⁵ One example is the case of Joseph Benoît Coney, detained by ‘high police measure’ for the continuous sending of false denunciations to the police, and for whom Fouché wrote that ‘this individual’s mania for denunciations was increased to an incredible extent’. AN O2 1430A, file 36, letter from Fouché to the Commission sénatoriale de la liberté individuelle, 2 thermidor year XII (21 July 1804).

⁵⁶ AN F7 4260.

⁵⁷ APP, Aa 317, Dubois to Fouché report, 9 September 1809.

⁵⁸ AN O2 1430-1436.

⁵⁹ APP, Aa 278, document 86, Basile Jacques Louis Colin, s interrogation, 3 pluviôse year IX (23 January 1801).

Paris Police Prefecture received about thirty anonymous denunciations in three days, to which several dozen others were added in the weeks that followed.⁶⁰ Again, these letters reflected a strong preoccupation with moral justification on the part of the whistleblower. They expressed the 'guilt' that there would be not to denounce, 'at a time when the first consul has just been exposed to the greatest dangers.'⁶¹

The study of these denunciations makes it possible to sketch out how the population denounced its surroundings or neighbourhood, and according to what criteria. Thus, neighbours, or merchants, were often denounced for comments against the government. For example, a man named Poacher was arrested for saying on the night of the explosion of the 'Infernal Machine': 'It's nothing, let's have a drink to Bonaparte's health.'⁶² In a context of strong emotion linked to the attack, any words that were not sufficiently patriotic were perceived as suspicious, by the police but also by the people themselves. Other denunciations were made on the criterion of non-belonging to the neighbourhood, which became all the more suspicious in this post-attack context. For example, a baker, Simonnin, reported that on the day of the attack, he saw a bloody man entering his home. He insisted on asking for his papers, under the pretext of calling a car to take him home; then, faced with his refusal, he left him in his shop to denounce him to the police station on rue Saint Nicaise, and asked 'that someone go to his house to find out who this individual was.'⁶³ Finally, it was sometimes simply the suspicious attitude that aroused popular suspicion. For example, a cooper came to the police and told them that he had encircled a barrel in a shed where he had seen a little mare and a cart, and denounced the person who had commissioned this work because he had 'noticed that he looked and stared a lot at the pavement, and looked dreamy like a worried man.'⁶⁴

Thus, the Parisian people were largely confronted with police mental categorizations: the supposed link of the man denounced with the conspirators, the adequacy of certain men with the police figure of the suspect, the non-appartenance to the neighbourhood, the departure from habit, comments against the government, a suspicious attitude, etc. It was just as much the police that conformed to the suspect's popular conceptions (with the notion of belonging to a community) as the opposite: if any denunciation is a subjective interpretation of reality, the informer seemed to use the police's language well, to be sure that he was understood by the police and that his information was considered of the highest importance by the police.

In addition, the denunciations also evolved during the police investigation after the 'Infernal Machine', following the evolution of the criteria of police suspicion. While the first letters mainly mentioned individuals 'known for their Jacobin convictions'⁶⁵, the fol-

⁶⁰ APP Aa 276 and 281. See also Salomé, *Louragan homicide*, p. 111.

⁶¹ APP, Aa 281, document 248, anonymous letter [undated].

⁶² APP, Aa 281, document 163, report on Braconnier, 1er pluviôse year IX (21 January 1801).

⁶³ APP, Aa 278, document 26, declaration by citizen Simonnin, baker, 4 nivôse year IX (25 December 1800).

⁶⁴ APP, Aa 278, document 41, declaration by citizen Baroux, cooper, 9 nivôse year IX (30 December 1800).

⁶⁵ Salomé, p. 111; APP, Aa 281, document 272.

lowing letters denounced royalists, which shows the adequacy between 'official' police research and voluntary public aid.⁶⁶ Desmarest thus reported in his memoirs that at the time Fouché provided proof that it was the royalists who committed the attack,

*Opinion suddenly turned, and people began to arrest what were called chouans. It was to whom would bring before the Minister any man who bore any resemblance to these once so despised records; and, as we could see them everywhere, Mr. Fouché still had to defend himself against this new zeal.*⁶⁷

As Karine Salomé points out, these letters of denunciation reveal 'the context of tensions and cleavages in which the attack on rue St Nicaise took place', and the permanence of 'resentments' and 'hatred' behind the shock caused by the attack.⁶⁸

III. OTHER OCCASIONAL CITIZEN ASSISTANCE TO THE POLICE

The occasional assistance provided to the police by individuals, on a voluntary and spontaneous basis, in terms of 'high police', could finally take other forms than that of denunciation. A few individuals offered to help the police by sending projects to improve the action or the workings of the police itself. These proposals for improvement were sometimes a pretext for requesting a position or compensation, the project remaining vague or confusing. However, other improvement projects were more concrete. This is the case of a letter sent by a soldier named Lesavre Caillier to Napoleon in 1812, stating that Paris needed more surveillance, especially at night, because 'it is in the darkness that plots are formed'.⁶⁹ Noting that the size of the police districts was too large to allow a night patrol to prevent all crimes, he proposed the formation of a night guard who would take up his duties from sunset until dawn, with the aim of 'completely eliminating those disrupters who, in full peace, demand that the quiet inhabitant stand on his guard'. This guard would have numbered more than 1000 men each night: he planned to create 24 companies of 75 men each, not counting officers and non-commissioned officers, and considered the smallest details: financial treatment of each policeman, financing of this guard by establishing a new tax on owners and tenants, 'proportionate to the price of rents above one hundred francs', recruitment methods for guards, uniform, model of pass,... It was therefore a project to set up a large-scale surveillance system, based on the traditional police idea, visibly integrated by this individual, that any person found on the street at night was suspicious and must be the subject of intense surveillance.

The vocabulary used here again echoed the suspect's police rhetoric, evoking 'vile intriguers', 'men unworthy to exist in society', 'disruptors', or 'corrupt beings, who must no longer be counted among a people as polite and civilized as the French'. The criteria for dangerousness advanced are very similar to those used by the police in surveillance re-

⁶⁶ Indeed, the attack was first attributed to the Jacobins, before its royalist origin was discovered by the police investigation.

⁶⁷ Desmarest, *Témoignages historiques*, p. 46.

⁶⁸ Salomé, *L'ouragan homicide*, pp. 109-111.

⁶⁹ APP DB31, Petition by Lesavre Caillier to the Committee on Petitions, 21 January 1812.

ports, showing the integration, and reuse, by Imperial society of police thinking patterns. How did this soldier justify his project, and his very approach? As with the letters of denunciation, the intertwining was fine between the declaration of a deep attachment to the regime, the promotion of oneself as the paragon of the perfect virtuous subject, and the act of self-interest. In the hope of obtaining a position in this new night guard, Lesavre Caillier once again testifies to the way in which a proposal for voluntary police assistance could also reveal an attempt to instrumentalize the police for its own purposes, while knowingly contributing to the strengthening of the regime.

The last example of this interweaving is a collective petition of the prisoners of Bicêtre, written to ask Napoleon for their pardon, in a context of regime change – since it was written two days before the official passage to the Empire.⁷⁰ This request for pardon was accompanied by a plan to improve the prison system, which would be based on a kind of quota system, by reducing the number of prisoners in the Empire to 30,000, which would have had the effect, according to the authors, of instilling in the released individuals a feeling of ‘gratitude’ towards the regime, and an unconditional love for its leader. This project is thus similar to the previous one in the way it would both strengthen the regime – at least in theory – and at the same time bring a reward to its authors: here, their release.

IV. CONCLUSION

While we must be careful not to exaggerate or generalize – since part of society has remained reticent towards the regime – this observation of active popular participation in the political police, under the Consulate and the Empire, leads us to deeply relativize the idea of a Napoleonic police force as an all-powerful and tentacular institution, weighing on a society unanimously victim of Napoleonic tyranny. The very idea of a highly formalised police system, with a solid foundation, is an illusion, since the ‘high police measures’ were based to a significant extent on a multifaceted and shifting network of exceptional informants or snitches.⁷¹

The importance of denunciation can be read in particular as a sign of genuine individual participation in the Napoleonic regime, a voluntary citizen assistance indicating the consent of at least part of the population to ‘high police measures’, in which the informer would feel responsible for a ‘civilian surveillance’⁷² role. However, beyond this role as a disinterested ‘high police’ actor, finally, there is a suspicion of a conscious use of ‘high police’ tools in the service of the whistleblower’s own interests, who cannot be seen in a simplistic way as the regime’s simple zealot. This popular participation clearly reveals the

⁷⁰ AN O2 1430A, file 19, petition of the 27 prairial year XII (16 June 1805).

⁷¹ As Clive Emsley points out, ‘the apparent centralization and professionalization of the police has often concealed the local impulses that actually ensured the balance of the police forces and guaranteed the effectiveness of the social regulations they claimed to exercise.’ Emsley, ‘Police, maintien de l’ordre et espaces urbains’, pp. 11–12.

⁷² This term is borrowed from Brodeur and Jobard, *Citoyens et délateurs*, p. 87.

possibilities of the police being instrumentalized by the citizens themselves. We could thus speak of 'internalisation' by the population of police rhetoric: letters of denunciation in particular were able to borrow the police word, to internalise their expectations and their way of thinking. These speeches are therefore not a pure reflection of reality, but a reality that can be seen under an appearance likely to convince the authorities, a construction that conformed to police expectations, in order to try to instrumentalize the police to achieve their own ends: a financial reward, a job, or their release. Therefore, any denunciation should not be read as a reflection of blind faith in the regime.

But at the same time, by providing occasional assistance, these citizens contributed to the strengthening of the regime, by helping to legitimize it, by recognizing its domination as an institution constituting the monopoly of legitimate physical violence and by 'participating in the process of criminalizing certain behaviours'.⁷³ It was in this sense that the police authorities explicitly encouraged popular participation in policing throughout the Consular and Imperial period.

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⁷³ Charageat and Soula, *Dénoncer le crime*, p. 16 and 336.

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‘There are Boches everywhere...’ –
Popular participation in tracking down
and controlling ‘the enemy from within’ in
France during the First World War

Ronan Richard

The inhabitants of Plouézec do not like to be praised for their police feats, their very special self-esteem is not consoled for having done a bad job. However, that adventure at least resulted in calming down the exaggerated fear of spies. The fleeting gleams in the night went out, the mysterious cars and ghost submarines disappeared, there was only the tolling of the knell, alas repeated too often, which came to remind us of the nightmares of the war.¹

This chronicle written by a teacher from Côtes-du-Nord narrates the arrest of a spy, imaginary as always, by a group of local people. It is a perfect summary of the popular excesses seen in every town and village on the French home front due to the ambient spy mania during the First World War. In a context marked by mourning but also by irrational fears fed by the wildest rumors, the general mobilization of the nation leaves no room for disinterest or idleness. The war effort and the sacrifices made by the combatants on the front are mirrored by a symmetrical duty of implication from civilians on the home front. As early as August 1914, in a context of ‘jingoistic outburst’,² members of the public spontaneously participated in a real hunt for ‘the enemy from within’ that is to say, searching for any individual representing a threat to national defense ‘through subversion, terror, sabotage, spying or betrayal’.³ Within this varied sample group, individuals put on file in Carnet B for antimilitarist activities are quickly removed, and then with the help of Union sacrée the figure of the spy will at once mobilize all the attentions and all the energies of patriotic watchers. The tenacious fantasy of a clandestine enemy penetrating into the home front calls for the entire population to get involved in the national defense by actively supporting the efforts of the specialized counter-intelligence services to flush out the ‘Boche in our home’ and render him harmless. Driven by different motives, not always in line with the ideal of national defence, this patriotic exercise takes a twofold form. At first, it is a question of hunting down spies by engaging in daily surveillance of any suspect elements. A stranger, a weird rig-out, odd behaviour, a German-sounding name, a villa with closed shutters; everything becomes shady. But the populati-

¹ Plouézec municipal notice, Côtes d’Armor Departmental Archives, 1 T 402.

² Becker, 1914, p. 513.

³ Bavendam, ‘L’ennemi chez soi’, pp. 707-714.

on does not just watch for suspicious behaviour, it also acts to eradicate any threat from a national point of view. If denouncing and spreading rumours are more common, it is also not rare to see physical intervention by a crowd and there is also sometimes recourse to summary justice. This contribution, which brings into question the cultural mobilization and the relations between the popular masses and the constitutional bodies during the First World War, will be based primarily on our research on Western France, interspersed with other national examples.

I. THE VARIED MOTIVES OF THE HUNT FOR 'THE ENEMY FROM WITHIN'

From the beginning of the war, there is a natural and conscious division of tasks between the combatants and the civilians. The former had to fight the war and win it, the latter had to contribute to victory by annihilating any threat to the nation at war. From the first days of mobilization, the violent nationalist excesses testify to a spontaneous will of popular participation, conveying a true drive to cleanse. Chauvinism, anguish, early mass mourning and an ambient Germanophobia inherited from the Pre-war era combine to explode into popular violence against everything that 'sounds German.' This spontaneous anarchy fuelled by false news primarily affects the rural world, where the fear of spies spreads. The deputy of the Morbihan department, Régis de l'Estourbeillon, thus gets carried away in his efforts against 'the home front poisoners' finding in the ignorant and credulous country masses a breeding ground admirably willing to welcome and spread the false reports responsible for people's suspicion. On the fly, he jokes about those peasant women accusing a fellow citizen of sending a gold bar to Germany every week, hidden in a lump of butter, or about a priest entrusting a sailor with all the local bank's gold every evening: it is his responsibility to send it to the Pope, who will hand it over to Emperor William.⁴

This fantastical fear of the enemy is also present in urban areas. In Paris, the psychosis of light signals intended for enemy aircraft triggers dozens of denunciations.⁵ In Saint-Brieuc, commercial travellers and German industrialists are accused of covering France with a suspicious coat of advertising inscriptions for Kub stocks which constitute as 'markings for saboteurs' like the one adorning the viaduct of the Paris-Brest line.⁶ The spy mania is even more acute on the coast, in holiday resorts which had been fashionable for many German families since before the war. A teacher in the Paimpol area reports that the fear of spies, maintained by gossip at washing places, made the most familiar figures look suspicious, the vibrations of supply vehicles for submarines were heard each and every night, light signals running around like big will-o'-the-wisps were glimpsed

⁴ Le Nouvelliste, 1 September 1915.

⁵ Loez, 'Lumières suspectes sur ciel obscur', pp. 166-188.

⁶ Le Lannou, Un bleu de Bretagne, p. 74.

at night, and where people would have sighted the mythical Korrigans, they now report sightings of Boche spies disguised as nuns.⁷

After the first feverish weeks, the fear of spies keeps smouldering, just waiting for a signal to wake up. It is fuelled by some newspapers promoting preventive posters inspired by the Ministry of War – ‘beware, keep quiet, enemy ears are listening to you’. Others publish photographs showing the executions of spies or open their columns to stressful serials, such as ‘Demon Boche’ published from June 1915 onwards by *Ouest Eclair*, which fuels the myth of old German spying activities firmly fixed on the Breton coasts. Books and press drawings complete the paranoia by listing an elaborate vanguard of the German army formed by those spies hiding in the country, while creating the illusion of large numbers. People who claim they contribute to the national defence are driven by several motives. The great majority are led by the genuine concern to serve France. Driven by a kind of uselessness complex, those zealous patriots seek to rid themselves of the guilt of not being on the front and transcend the status of mere passive spectators of the conflict. Tracking down and interning the enemy from within is somehow waging war too, in another way. ‘Between two prefectural glasses of red wine’, Maurice Le Lannou reports, the rural policeman of Plouha, in *Côtes-du-Nord*, had understood ‘both the danger and his duty’, that is to say keeping a daily watch on the famous Kub advertisement painted on a small and modest local bridge.⁸

In addition to the desire to take part in the war effort, hunting the enemy from within is also a form of patriotic leisure. The pleasure taken in watching and locating spies serves the nation as well as relieving the boredom of its citizens. A third motive, more shameful and therefore always anonymous, is the matter of individual malevolence, whereby the war serves as an alibi for people to settle small personal scores cheaply. ‘It is already enough to skilfully throw a name to the crowd to get rid of a rival’ priest Lelièvre, a witness to the agitation of the early days of the war, reports.⁹ In one place, employees rouse the crowd to take revenge on an unpopular boss by revealing his alleged German origins.¹⁰ In another place, a lay teacher is denounced as a spy by the village priest, building on very old political quarrels in the background.¹¹ With those multiple intentions in mind, the ‘sniffers’ take a sharp and paranoid look at some potential spies archetypal figures.

⁷ Plouézec municipal notice, *Côtes d’Armor* Departmental Archives, 1 T 402.

⁸ Le Lannou, *Un bleu de Bretagne*, p. 75.

⁹ Pierre Lelièvre, *Le fléau de Dieu* (Paris: Ollendorf, 1920), p. 5.

¹⁰ Breton, *A l’arrière*, p. 22.

¹¹ Folder of the teacher Théodore Chalmel (1885-1935), Departmental Archives *Ille-et-Vilaine*, 1 F 1768.

II. WHO ARE THE “ENEMIES FROM WITHIN”?

1. The real German

Naturally, the enemy from within is first associated with the Germans. That suspicion particularly sharpens people's eyes in the towns and on the coasts, where the 'bland German tribes' installed in hotels and villas are seen as vanguards of the German army. What does it matter if those dangerous Huns are actually Alsatians, like Louise Weiss who takes refuge in a family villa in Saint-Quay-Portrieux, where many Protestant families from Upper and Lower Rhine have formed small settlements that local people quickly call 'nasty Boches'.¹² The archetypal spy figure here, inherited from before the war, is that of the banker Kahn. Anxious to give substance to Leon Daudet's predictions of a potential German landing on the island of Bréhat, the Breton regional press picked up the story as early as August 1914. To prepare and lead such a military campaign – the potential landing of 200,000 men on the island is evoked without batting an eyelid – a potential subject for suspicion is needed, and Maximilian Kahn, the son of an influential Jewish banker in Frankfurt and owner of a wealthy villa on the island, is the one. Although groundless, those 'Bréhat rumours' sharpen the paranoia of spy hunters.¹³ Actually, nothing proves that Kahn was really chased out of Bréhat by a popular riot, as some 'witnesses'¹⁴ argue, and the figure of the spy Kahn is above all a media construction exposed to public condemnation, which sees a good opportunity with the presence of this idle, German, Jewish bourgeois, with old anti-semitism competing with ambient background Germanophobia.

2. The fantasy German

However, the popular suspicion of people 'being a Boche' also takes aim at the fantasy German. In this context of irrational fear, confusion prevails and any figure that doesn't fit the local setting is immediately considered a potential danger. Foreigners, Swiss, Russians or others are concerned, especially when they are tall and blond. The internment of civilians from so-called 'oppressed nations' – Poles, Czechs, etc. – but also many Alsatians and people from Lorraine reveals the importance of this precautionary principle, reinforced by the ignorance of the low-level civil servants who were in charge of separating the wheat from the chaff, and who cautiously prefer to intern many more suspects than necessary rather than to let loose potential spies. The population gives into that suspicion even more. People are suddenly inflamed by certain names that were familiar to them before the war. 'For a few days, it was not good not to be called Dupont, Martin or Bernard, because a Teutonic-sounding name cast suspicion over its owner, who got abused [and] was threatened',¹⁵ Victor Lecas reports, evoking the traders who have to demand protection from the authorities and to stick the words 'French house' or some official docu-

¹² Weiss, *Mémoire d'une Européenne*, p. 172.

¹³ *Le Journal de Paimpol*, 13 February 1916.

¹⁴ *Le Moniteur des Côtes-du-Nord*, 29 August 1914.

¹⁵ Lecas, *A bas les Boches!*, p. 98-100.

ment on their windows to ease people's suspicion. In addition to the 'dirty name' crime, the population also succumbs to prejudice against any singular-looking intruder. Otherness puzzles and worries people, and not only in isolated rural areas. "Tall, with a blond moustache, blue eyes and very educated, this is obviously a Prussian officer"¹⁶ the regulars of a café in Fougères conclude, on seeing an unknown customer. Those archetypes related to appearance and novelty lead to a few rather ubiquitous popular blunders about alleged 'Boche spies' disguised as women, at a time when persistent rumours everywhere also warn people against a woman with a large feathered hat moving around in a car and distributing poisonous sweets to children on the home front.¹⁷ In May 1915, an 'agent from Germany' suspected of supplying the 'starving Boches' was thus apprehended by the crowd at the cattle market in Lannion. Unmasked by his tall height, his wig and his dense pilosity clumsily concealed by a fresh shave, the person incriminated is in fact a female merchant from a neighbouring village. She thus justifies the physical stigmata behind the mistake: 'What can you do? Being afflicted by nature, I have only found one way to hide this ugly down: I do like you, I shave!¹⁸ In Plouézec, near Paimpol, the population rejoices similarly in the summer of 1917 on apprehending a Boche spy disguised as a woman found lurking around the semaphore, not far from the island of Bréhat which had been rustling with rumours of a German landing. The premonitory echoes peddled about her are imbued with the same fantasies: a horrible figure, gigantic feet, hairy hands. Before the gendarmes, the Boche spy disguised as a woman dispels every doubt with dignity: it is actually the widow of Jean-Marie Toussaint Pendézec, a former Army Corps general and Army General Chief of Staff, deceased in 1913, who is on holiday in Plouha.¹⁹ We could multiply the examples of misadventures happening to brave French people whose only crime is not to have been familiar figures for natives who have been made a little finicky and paranoid by the circumstances.

3. The assimilated German

By extension, the hunt also affects all those who are associated with Germans through marriage or acquaintance, presumed or real. The same goes for French women married to Germans and their children. 800 of them are thus gathered during the first days of the war in the jail of the police headquarters in Paris with the motive of potential spying. They are massively denounced everywhere and then transferred to internment camps where they represent between 5 and 10 percent of the workforce in the autumn of 1914. Internees' letters note that they are sometimes not treated as well as women who are German by birth.²⁰ The preventive confinement also extends to women suspected of going around with Germans in the occupied departments of the East and North. 150 of those 'dubious women' are thus confined in the hotel of Kergroës, in Finistère, on the grounds of social and/or moral anti-conformism supposed to hinder the nation at war. If prosti-

¹⁶ Le Réveil fougérais, 14 August 1914.

¹⁷ Becker, 1914, p. 509.

¹⁸ Le Moniteur des Côtes-du-Nord, 20 May 1915.

¹⁹ Richard and Richard, 'Rumeurs et espionnage en Bretagne', pp. 419-432.

²⁰ Jouguet internment camp, Internees letters, Côtes d'Armor Departmental Archives, 9 R 7.

tution alone constitutes a form of 'social leprosy',²¹ the suspicion that a woman is having a relationship with Germans, as it is, is an act of collaboration and clearly renders these women enemies. It should be noted that this camp, outside the scope of ordinary laws and poorly secured, constitutes a relative threat for the public order, as the surroundings of this depot attract curious onlookers, most often men, and the authorities states a net revival of prostitution in the local taverns.

This lack of trust extends to refugees, not just those who have lived in the occupied territories and who would have been 'infected' by their contact with the enemy. On the home front, especially in remote rural areas, many refugees suffer from suspicion which is too often targeted at migrants. If the local populations fear that, because of the great exodus of August and September 1914, spies could join this 'massive trek of migrants' converging on the home front, they have become alarmed more generally about the intruder, the stranger to their 'little homelands', with the timely name 'Boche du Nord' used to stigmatize him further and to attract suspicion to him. The aim is to push him to leave, even though he has never come into contact with Germans. It is more the fear of the migrant that creates this timely assimilation with the enemy, with the sole unadmitted and inadmissible objective of sowing the seeds of doubt and confusion.

4. Surveillance of 'spy nests'

Once interned, the doubt piled on the enemy from within doesn't dissipate. The neighbouring residents are watching over the situation and while they insist that internment camps do not become 'golden cages', they also fear that these will become real nests of spies. Popular suspicion falls on these establishments which are subject to frequent wild accusations. In the abbey of Langonnet in the Morbihan, for example, where Austro-German ecclesiastics are interned, is denounced at the end of 1915 by a French combatant on leave as an intelligence centre and as a landmark for enemy planes, flying over the area on dark nights. 'A discreet investigation could be fruitful in the result'²² concludes the informer. Coastal camps are obviously privileged targets for such rumours. In Noirmoutier, Guérande, Sarzeau or Carnac, there are countless cases of luminous signals supposedly being sent to German submarines. These accusations are clearly guided by malice. Some merchants and local craftsmen criticize the unfair competition from production workshops in some camps while elsewhere, the mere presence of these undesirables and the inconvenience caused by their security perimeters feeds the rumours aimed at getting these civil prisoners transferred elsewhere.

III. POPULAR MODES OF INTERVENTION

The hunt for the enemy from within takes two main forms during the war, one individual, the other collective. The sharing of roles is pretty clear. The individual 'sniffs' and de-

²¹ Le Naour, *Misères et tourments de la chair*, p. 156.

²² Langonnet internment camp, Departmental Archives Morbihan, 4 M 526.

nounces suspects at the first suspicion, the crowd gathers and admonishes and then the authorities apprehend the suspect and investigate, and if necessary punish him.

Whether it actually provokes a rumour or is the result of rumours, denunciation is one of the preferred popular modes of intervention. Anonymous letters flourish 'with remarkable intensity'²³ according to a report to the prefect of Vendée in August 1915, the snitch denouncing any suspicious signal or presence. 'Monsieur the prefect, do you know that the mayor of Maroué has a Boche domestic servant at home?' ask thus 'a father who has his children on the front'.²⁴ The prefectural archives are full of letters of the same type while other informers also act verbally to stir up the crowd. 'Shout down the spy! It's the German we need!' says a passerby in Rennes station, intrigued by the suspicious appearance of a man. Once started, the rumour is collectively assumed and the individual immediately blends anonymously into the crowd. The recourse to collective physical intervention against the enemy from within goes back to the first days of mobilization, all the emotions of the moment exploding impulsively on a basis of a simple rumour. 'The French were as crazy' writes a German civilian internee in a letter.²⁵ Referring to the destruction and looting of stores and the obsessive tracking of the spy, Hugo Ringer, interned near Saint-Brieuc, describes a wild populace sniffing out everything that has a foreign character and also describes scenes of lynching during which suspects had their clothes torn off and were knocked to the blood. According to this internee, 'more than one [...] would have left his life under the fists of the fanatical mass during these days of horror'.²⁷ Throughout France, there are traces of these violent arrests and lynching scenes perpetrated by the raging and repulsive 'populace' that André Lorulot accuses of wresting simple suspects from the hands of the police in Marseilles in order to trample them.²⁸ This testimony questions the role of public authorities during these days of popular outbursts. Sources disagree on this point. If some witnesses claimed that the police were guilty of brutal threats, insults and violence against foreigners,²⁹ it seems that more frequently, the intervention of the authorities' representatives made it possible to restore public order and decrease tensions, which explains why, once confined to the depots, many internees confide that they feel safe and secure, protected from the popular violence.

If this popular fever of the first days soon dissipates, it awakens again at the slightest opportunity. Some poison pen letters addressed to the prefect make their full intention clear, as in one village of Côtes-du-Nord where a vigilant patriot has located 'his Mata Hari', actually a simple German servant employed by a local notary: 'If you don't sort it

²³ Departmental Archives de la Vendée, 4 M 265.

²⁴ Jouguet internment camp, dossiers des internés, 9 R 2, Côtes d'Armor Departmental Archives.

²⁵ Ouest Eclair, 15 August 1914.

²⁶ Jouguet internment camp, Côtes d'Armor Departmental Archives, 9 R 7.

²⁷ Ringer, Boulevard des étrangers, p. 23.

²⁸ Lorulot, *Barbarie allemande et barbarie universelle*, p. 13.

²⁹ Ringer, Boulevard des étrangers, pp. 23-24.

out, we'll clear it up, we'll set fire to his home and we'll put her in the water'.³⁰ Physical intervention is not always just a threat. It is part of a sort of ritual involving, in turn, denunciation, crowds of pedestrians and the arrest of the suspect by the mob who turn him over to the authorities in charge of the examination. During this active phase, the crowd exhibits a virile form of defiance in order to put pressure on the authorities. Insults and threats fuse, but never transgress the established order, thanks to the presence of a handful of individuals representing authority. At Fougères, the Prussian pseudo-officer, escorted by firemen, old soldiers, and the local rural policeman, is surrounded by an aggregate of exasperated patriots proposing nothing less than to shoot him without delay.³¹ In Rennes, a suspect is led in procession to the police station by 200 to 300 over-excited people shouting death threats and at the passage of the Saint-Georges Bridge to proposing throw the suspect into the water. The intervention of armed soldiers escorting the suspect, reinforced by military nurses, helps calm the spirits and lead him to the police station.³² In Plouézec, the 'German spy disguised as a woman' is also escorted 'by a screaming crowd of shameless kids and shrews armed of pitchforks and sticks,' surrounded by two customs officers in uniforms ensuring her protection.³³

In the end, these popular stirrings are more about ritual bidding than a real desire to do justice in place of the public authorities. This collective violence allows the populace to evacuate the accumulated tensions while giving its contributors the feeling they can act against the enemy almost as much as the combatants at the front. Yet this is in vain because these enemies from the interior are always imaginary and the verdict of the authorities everywhere stifles this thrill felt at the prospect of having seen the shadow of the enemy 'in a mouse hole'. In all these cases after the first weeks, the authorities clearly assume their role. Unwilling to apportion on these cohorts of zealous patriots, partly inspired by the state policy of national defence, the authorities work conscientiously to investigate every denunciation and to as much as possible prevent any temptation of popular justice. The memory of the events of the first days of August 1914 precludes the authorities from underestimating this risk, although it is all the more embarrassing as spies almost always don't exist. The ambiguity of the role of the public authorities can be read clearly in these words of the Police Commissioner of Rennes:

*In these days, we cannot be too careful. But all the same, we should not impose excessively on caution. Supervising suspicious people; examining their facts and actions is alright. But arresting without any reason, treating these people like bandits is exaggerated. Once again, do not worry, let us keep our composure: circumstances require it!*³⁴

³⁰ Jouguet internment camp, Côtes d'Armor Departmental Archives, 9 R 2.

³¹ Le Réveil fougérais, 14 August 1914.

³² Ouest Eclair, 15 August 1914.

³³ Plouézec municipal notice, Côtes d'Armor Departmental Archives, 1 T 402.

³⁴ Ouest Eclair, 15 August 1914.

IV. CONCLUSION

Can we, ultimately, understand these forms of popular policing as a translation of this culture of war, defined as a set of shared representations and practices, a complete rupture with pre-war ideas, fuelled by exacerbated patriotism, hatred of the enemy and new forms of radical violence? Admittedly, the perceptions of the foreigner, and especially the German, changes radically from the mobilization. Hugo Ringer notes it well in his diary when he expresses how he deplores those friendships that had lasted for years and had suddenly changed into 'ferocious hostilities'.³⁵ However, this monolithic cultural analysis must be qualified with some remarks. On the one hand, as we have seen, the motivations of the spy hunters are not all related to the war but sometimes to personal or family grudges. On the other hand, the most violent behaviour doesn't help in strengthening public order. By its destruction, its beatings, its gatherings and its blackmail with an expeditious justice, the crowd acts outside the law which ought to guarantee public order. It creates more disorder, behind the easy alibi of a national defence which is itself misguided. These practices, furthermore, are not unanimous. Many observers admit their shame at the popular and disturbing abuses of what André Lorulot calls 'popular peat'.³⁶ The arrests of some 'thugs' are also allowed thanks to many denunciations. As Jean-Jacques Becker notes, if public opinion seems for a while to have been an accomplice, it quickly recovered.³⁷ In the same way, the practice of the snitch has its detractors, including among the local press. And then, as always, there are in the population people who are undoubtedly indifferent, passive, those who are always hidden from the eyes of historians. As for this hatred of the enemy, a supposedly essential component of the culture of war, which would be the matrix of a radical violence against the German and a ruthless pursuit of the enemy from within, it is not consubstantial with the French population. The real enemy is, in fact, all but hidden: he is in the countryside, in the forests, on the roads, in the factories, in the ports, where more than 300,000 prisoners of war are at work in November 1918. And the mistrust towards them has quickly faded, even in remote rural areas. Formerly abhorred, this 'retrograde barbarian' has meanwhile become a providential worker whose contribution is so appreciated that one quickly forgets all safety precautions. At the end of the war, these prisoners working out of camps which were described at the beginning of the war as 'spy nests' are used in campaigns separately and are almost unattended. Because of its disorganized, unconventional and unpredictable nature, essentially irrational and impulsive, popular participation in the eradication of the enemy from within is ultimately more embarrassing than helpful for the authorities. In the absence of a real enemy, this gives an outlet for part of the population. The suspects thus previously hunted serve as scapegoats in order for the population to feel less guilty about not being in the front and to exorcise tensions, mourning and anxiety caused by the conflict. This exercise, felt as patriotic, also often reflects, in the most iso-

³⁵ Ringer, *Boulevard des étrangers*, pp. 22-23.

³⁶ Lorulot, *Barbarie allemande et barbarie universelle*, p. 13.

³⁷ Becker, 1914, p. 505.

lated areas, a natural temptation to withdrawal. The stranger to the closed world of the village community, this 'little homeland' constituting the most reassuring level of identification, naturally arouses fear and suspicion. Mysterious, he inspires distrust and in a context of fear fed by the wildest rumours, there is a step, quickly crossed, between the intruder, the suspect and the enemy.

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Investigations into the kidnapping of young Malméjac (1935) – Police, Justice and Population

Laurence Montel

The expression ‘popular policing’ enables us to identify and study the forms and moments of population mobilisation in the service of public order and security. The establishment of militias or civic security forces, the exercise of citizen vigilance in the service of the power in place and the denunciation of suspects are all examples of the population carrying out so-called “administrative” police missions, the aim of which is to guarantee public order. This is distinct from criminal investigation policing, which involves the search for offenders. Repressive rather than preventive, it aims to restore the public order which has been compromised. This article will focus on the possibility of the popular exercise of such a police mission, based on a case study: the kidnapping of young Claude Malméjac, 18 months, in Marseille outside a park, on 28 November 1935¹. Marie Cardin, 68, and André Clément, 26, a mother and son, were on the verge of bankruptcy when they formulated the plan to kidnap the child of a wealthy family. They chose the Malméjacs as their target, Jean, the father, being a professor of medicine at the faculty in Marseille, and demanded a ransom of 50 000 francs. As soon as news of the abduction reached the public prosecutor’s department, examination proceedings were opened under the supervision of Judge René Minnard. It was in this context that a search was organized with a view to finding the child. Whilst the search involved the judge’s marshals, and particularly the Sûreté in Marseille, the judicial branch of the local police, it also led to significant social mobilisation, as illustrated by the mass of information conveyed to the professional investigators and included in the procedural file. And yet, the study of this investigation reveals that the abduction tested the judicial and police authorities. It was a moment of crisis, a context which drew out an inquisitive community beyond the professional investigators, whose significance remains to be shown. To this end, we will begin by exposing the conditions which encouraged popular participation in the inquiry, before studying the forms of this participation. Finally, we will show that the community of professional investigators was extended to the laypeople, and suggest what meaning ought to be ascribed to this. To do so, we will draw on studies which, since the 1990s, have renewed the social history of crime and justice by taking judicial personnel and po-

¹ This research is partly based on documents related to the kidnapping of Claude Malméjac conserved in the Archives départementales des Bouches-du-Rhône, under the number 2U2 5746. These documents are divided in three files: Cézilly inquiry file, Malméjac inquiry file, and ‘false leads’ file.

lice, their sociology, professional culture and relationships as the objects of study.² We will also draw upon the contributions of cultural history, namely with regard to the emergence of mass culture, narratives of crimes and investigations,³ and to progress in the history of the investigative method, considering its rhythms, its economy, its internal tensions as well as its diffusion and democratisation, the investigative method having become the preferred method for understanding of the social in the 19th century.⁴

I. POLICE, JUSTICE AND THE PRESS IN SEARCH OF CLAUDE MALMÉJAC

If the search for young Malméjac provoked such a large popular mobilisation, it was foremost because the investigators requested it, in the absence of any clear leads on the night of the abduction on 28 November. Around 3pm, the kidnapper, an old woman dressed in black and walking with a cane, approached Claude Malméjac's nurse, Georgette Perrachon, in the Parc Chanot. Some days earlier, this woman had entered the Malméjac's apartment building at 185 avenue du Prado, in the suburbs, under the pretext of visiting an apartment for rent. She had crossed paths with the concierge, the nurse and the child. Hence when, on 28 November, she ran up to announce that Jean Malméjac, the father of the child, had been involved in a serious accident and had asked her to fetch the child as well as a doctor, the nurse did not question her. The two women hailed a taxi, which the kidnapper chose so that they could fit the child's pram into it. The taxi made a first stop in front of the apartment of Doctor Crémieux, whom the nurse went to fetch alone, the old woman having offered to carry on the journey with the child. When Georgette arrived at the family apartment a quarter of an hour later with the doctor, only Mme Malméjac was there. Jean Malméjac, uninjured, was at the faculty. As early as 4pm, he informed the precinct captain, François Giorgi, of the events, who prepared a report within twenty minutes.⁵ Ten minutes later, the Sûreté were informed, who themselves alerted 'every police station, gendarmerie and border control in post France', whilst the judicial inquiry was entrusted to René Minnard, investigating judge.⁶ The priority was to find the kidnappers and the child, but the investigation faltered in the absence of obvious leads, with the nurse having quickly been exempted from suspicion. The investigation then took two directions. The French police and judicial authorities were alerted on the evening of the 28th by the Marseille police and on 29 and 30 November by the investigating judge, by means of rogatory commissions and very large delegations, 'for the purposes of the search'. On the morning of 29 November, the judge ordered the General Department of judicial investigations to publish the descriptions of the kidnapper and the child in the criminal po-

² Rousseaux, 'Historiographie du crime'; Berlière, Denys, Kalifa and Milliot, *Métiers de police*; Farcy and Clère, *Le juge d'instruction*; Lopez, *La guerre des polices*.

³ Kalifa, *L'encre et le sang*, p. 289-292; Kalifa, *La culture de masse*.

⁴ Farcy, Kalifa and Luc, *L'enquête judiciaire*; Guignard, *Juger la Folie*; Malandain, *L'introuvable complot*.

⁵ Giorgi Statement, 28 November 1935, item n° 6.

⁶ Couplet Statement, 1 December 1935, item n° 301.

lice bulletin. He called upon magistrates and police in Marseille, Nice, Aix, Avignon, Béziers, Toulon, Digne, Grasse, and Algiers. In Marseille he sought the cooperation of the local criminal investigation department as well as the 9th Mobile Police Brigade, who were specialized in the search for offenders with territorial jurisdiction extending to the entire South-East of France. At the same time, two calls for witnesses were issued, by the TSF (the radio) and then by the newspapers, with a view to seeking out the testimony of the taxi driver who drove the kidnapper and the child, and more broadly, any information which might set the investigators on the right track. *Le Petit Marseillais*, which was the leading local daily newspaper in terms of circulation, ran the following statement: 'In this regard, it would be helpful if passersby who caught sight of them would make themselves known to the police. The description of the old woman is the following: small, with a pointed chin, dressed in a long black coat with a black toque, with a slight limp and using a cane to walk.'⁷ The call for witnesses is the classic resort for investigators lacking any other leads.⁸ The inquiry, embarked upon in the dark, logically opened up to an enormous range.⁹

In these conditions, a singularly 'disorganized, polyphonic, not to say cacophonous' criminal investigation took place, from 28 November to 2 December.¹⁰ The taxi driver, Albert Tomassonne, answered the call for witnesses on the evening of the abduction. He claimed to have dropped off the kidnapper in front of n°5 Cours Pierre-Puget.¹¹ The building was searched without success. On 29 November, the investigation began to diffract. The judge asked the technical police in Marseille for a reconstruction of the abduction and a map of Parc Chanot. The *Sûreté* established a connection between the abduction and an armed robbery committed in September, on the basis of the ransom demands which the abductors addressed to the parents on 28 and 29 November. The victims were offered the restitution of their property in exchange for a sum of money, by means of a letter in identical writing. But the follow-on investigations did not lead to the identification of the offender, who remained unknown.¹² Since one of the ransom letters was left by the kidnappers in the Malméjac's apartment building, the *Sûreté* posted two agents as sentries. On 1 December, they arrested Marcellin Barthélémy, a waiter in a café, and on 2 December, Jean Boyatzopoulos, a mechanic, who both wanted to deliver written instructions to the Malméjacs by hand. Both were cleared of suspicion following hearings and investigations.¹³ Since leads were limited, the investigation to find the child and the kidnappers was driven by information which pointed towards the investigators.

⁷ *Le Petit Marseillais*, 29 November 1935.

⁸ Lopez, 'Tout en police est affaire d'identification', p. 214.

⁹ Malandain, 'Ouverture et aporie', p. 322-323.

¹⁰ Kalifa, 'Enquête et "culture de l'enquête"', p. 9.

¹¹ *Le Petit Marseillais*, 29 November 1935.

¹² Anonymous letters, items n°398 and 399, Couplet Statement, 1 December 1935, item n°301.

¹³ Couplet Statements, police reports n°5357, 1 December 1935, and n° 5402, 2 December 1935, 'false leads' file, unnumbered items.

Information arrived in various forms: written, verbal, by telephone, by telegraph, hand-written and typed, and addressed to the police and to the Malméjacs, but also, depending on the case, to the State prosecutor, to the investigating judge, to the central commissioner, to gendarmes and to district commissioners. Although the investigators in Marseille collected most of the information, some of it was transmitted to them from outside services.¹⁴ On 29 November, the information given to the investigating judge and to the Sûreté dictated the first searches. The witness account of a hairdresser led to the discovery of the pram left by the kidnapper at n°18 Cours Pierre-Puget, steps away from n°5 where she had been dropped off by the taxi driver.¹⁵ Following an anonymous tip-off, received at his office, the judge went with his registrar to a nursing home to question Mme De Renzis, a potential suspect.¹⁶ The investigation carried on without success the following day. The Marseille police, for its part, organized searches in the southern districts of Endoume and Vallon-des-Auffes, on the basis of different corroborative witness statements.¹⁷ Significant resources were invested: plainclothes detectives, uniformed agents, and police dogs. The whereabouts of the child remained unknown. He was in fact being hidden in the western district of Saint-Julien.

From 30 November, the work of the investigators was split between the treatment of the incoming information and the following up of leads which seemed to be relevant. The follow-up investigation included a suspicious telegram sent from Nogent-sur-Marne, chloroform attacks in a Catholic educational establishment reported by sources in Lyon, the identification of a retired man who had tried on several occasions to seduce the nurse, the lead of a possible revenge plot in Algiers against the mother of the child, who came from there, and different suggestions as to the whereabouts of the child, including the islands of the Porquerolles and Sainte-Marguerite. A link was established between the abduction and an attempted child kidnapping involving another doctor, Doctor Cézilly, the previous Saturday.¹⁸ A dozen such leads were investigated.

In Provence, the investigating judge deployed Mobile Police personnel in the field, leaving the treatment of information, a more administrative task, to the Sûreté. The personnel organized themselves accordingly. Inspector Ernest Collomb, for example, was put in charge of receiving 'the statements of people who presented themselves to our service to give information on the matter of the kidnapping of young Claude' by Commissioner Couplet.¹⁹ It was Collomb who compiled 'the summary of the statement of demoiselle Montagu,' which put the investigators on the trail of the kidnappers. It was given to him by the main inspector Jean Martini, who first listened to the statement and deemed

¹⁴ 'false leads' file, 2U2 5746(2).

¹⁵ Couplet Statement, 30 November 1935, item n°291.

¹⁶ Judge Minnard's statement, 29 November 1935, item n°308.

¹⁷ *Le Petit Marseillais*, 30 November 1935.

¹⁸ *Marseille-Matin*, 29 November 1935, Delegation of Judge Minnard to the central commissioner, 30 November 1935, item n°43.

¹⁹ Statement of Ernest Collomb, Couplet Statement, 4 December 1935, item n°304.

it worthy of interest.²⁰ Once it had been recorded by Inspector Collomb, the information was ‘immediately passed on to the Chief Inspector Desmoulins, in charge of gathering all statements and following them up’.²¹

Only one statement, that of Mlle Montagu, led to anything. But the stream of information was considerable, according to the police and the newspapers. Commissioner Couplet wrote on 2 December that ‘Information is coming in from all directions, from people acting in good faith, from anonymous sources, by telephone or by letter’.²² Marcel de Renzis, who was covering the case for *Le Petit Marseillais*, welcomed the fact that ‘spontaneous witness accounts to the investigators [abounded]’ from 29 November, ‘by the dozen’, the ‘description of the kidnapper published yesterday morning in the papers’ having struck public opinion.²³ The procedural file bears witness to this: a disparate bundle of statements, telegrams, letters, investigative acts, with 162 documents in the folder entitled ‘false leads’, considered as such after the kidnappers arrest and various checks and follow-ups. There are around 30 statements and 70 telegrams and letters, received between the 29 November and the 2 December (others having been written, sent or received after that date, 25 of which could not be dated). It is unusual to find such a large corpus of this kind in procedural files. This documentation is not sufficient to attest that the investigators were confronted with a tidal wave of testimonials. It is likely that it is only a residue of the sum total of information received: the police services may have made an informal and infra-judicial pre-selection, or not taken into account the entirety of the information, possibly because they were overrun. A letter, sent by a court usher in Marseille, Louis André, suggests as much. Convinced that he held important information, he first went to the 8th district police station. Unable to find the commissioner, he then tried to telephone the *Sûreté*, but ‘it was not possible to get through to them’. He then asked the ‘police station orderly’ in the 8th district to telephone the *Sûreté* ‘as soon as possible’. But fearing that ‘in the wave of information’ from ‘that morning, my own would go unnoticed’, he wrote a letter.²⁴ The ‘false leads’ file is very disorganized. The letters are crumpled, some of them torn or partially cut up. Envelopes are often separated from their contents, and information received by post is mixed up with statements taken down in the offices of the *Sûreté* and with follow-up investigations ordered by the judge. This collection of items, though chaotic, sheds light on the forms of popular mobilisation, its social scale and its motivations.

II. POPULAR CONTRIBUTIONS TO INVESTIGATION, PARALLEL INQUIRIES

We will call ‘declarants’ those individuals who gave information to the investigation authorities, whether in written form (letters) or verbally (statements). The corpus reveals a

²⁰ Statement of Jean Martini, Couplet Statement, 4 December 1935, item n°303.

²¹ Statement of Ernest Collomb, Couplet Statement, 4 December 1935, item n°304.

²² Couplet Statement, 2 December 1935, item n°307.

²³ *Le Petit Marseillais*, 30 November 1935.

²⁴ Letter from Louis André, 30 November 1935, ‘false leads’ file, item n°13.

‘popular’ participation in the exercise of justice, inasmuch as the declarants came from different social environments and age groups. It is obviously difficult to precisely situate them all in the social hierarchy. To do so, we would need to know each one’s profession or status. Whilst this information is included in the statements taken down by the police, it is only mentioned spontaneously by 32 of the letter-writers. Alongside a woman who states that she has no profession, we can find the general secretary of the tennis club of the University of Marseille, two primary school teachers, an education inspector, an engineering consultant, a postman, a retired master mariner, a retired member of the PTT (Post Office and Telecommunications Service), a dental surgeon, two streetcar employees, a court usher, a judge in the court of Uzès, two mechanics and a driver-mechanic. There is also a ‘builder’, though he does not say whether he is a boss or a worker. At first glance, the middle classes and the elites predominate. The Malméjac family, who lived in the suburbs (boulevard du Prado), took their holidays in Chamonix, and could gather together 50 000 francs in three days, lived in obvious comfort. The drama with which they were confronted clearly affected men and women who felt that they could identify with it. Nevertheless, we cannot reduce the mobilisation to a question of class. It is likely that workers were a minority amongst the witnesses because the abduction took place in the middle of the day in a bourgeois neighbourhood of Marseille, where there may have been few of them. Moreover, the letter-writers most often did not spontaneously mention their professions. The mention of their professions must be interpreted as a choice in the presentation of themselves amongst others, for declarants who wanted to justify or legitimate their statements.²⁵ In this corpus, 65 letters, more than half of the total, are anonymous or signed with a name, a first name or initials, so that the identification of the author is impossible. Some, such as the builder, state their profession rather than their name, even though it does not confer on them any particular credit, because their profession is what they identify themselves by above all.²⁶ But most often, the profession is mentioned for its probative force, in order to impress upon the investigators, by the identification of the writer’s equal or superior social status. Others base themselves on the force of their expertise: this is the case of two astrologers and one clairvoyant, to which can be added by extension an occultist and fifteen amateur diviners, about whom it may be more appropriate to refer to by occupation rather than by profession. To this group can be added Gabriel Marck, a penitent ex-convict ‘who has been in more or less all of the important prisons’ and might be qualified, to use the parlance of the time, as a former professional offender. Having straightened himself out, and therefore being worthy of trust, he considers himself legitimate in inciting Commissioner Couplet to look for the kidnappers ‘not amongst the gangsters’ but rather ‘another professor or doctor who is jealous and capable of anything’.²⁷ It is likely that many of the declarants, from working-class backgrounds, did not state their profession because it did not make sense to in this context. On the other hand, they justified their words by their family status and the emo-

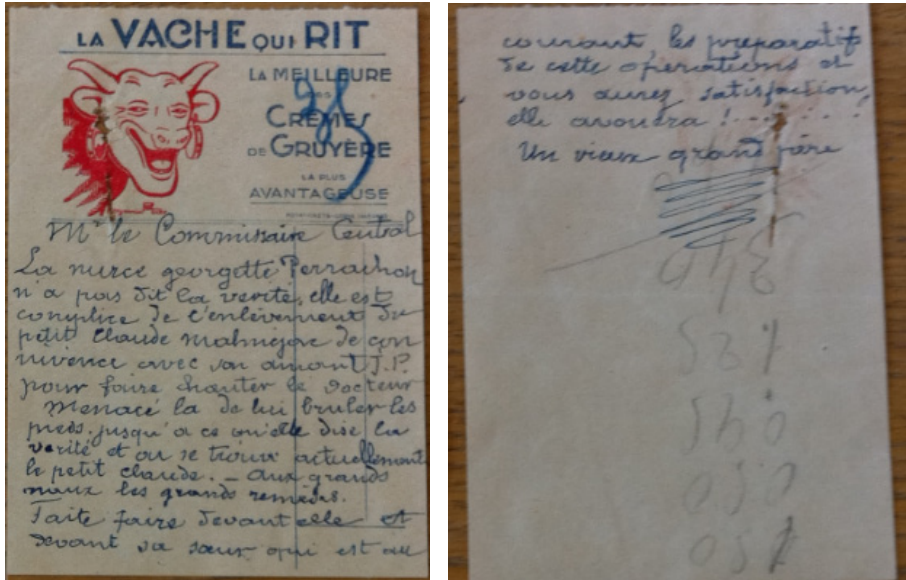
²⁵ Dauphin, ‘Les correspondances’, p. 44.

²⁶ Anonymous letter, 1 December 1935, ‘false leads’ file, item n°28.

²⁷ Letter from Gabriel Marck, 2 December 1935, ‘false leads’ file, item n°48.

tions which they felt with regard to the abduction of a small child. Several signatures are replaced with 'a father'. We can also find 'a very distraught woman and mother', and 'an old grandfather'.

The social diversity of the declarants, which can be inferred from these different presentations, is also visible in the material examination of the corpus. The use of letter paper, headed paper, or even good-quality white paper, the use of telegrams, the mastery of codes of correspondence, such as the mentioning of the date and place of writing, the identity of the sender as well as the recipient, the conventional use of styles of address, indicate a habitual, professional or class practice of written correspondence. On the other hand, a number of tip-offs were written on schoolbook paper, postcards, sometimes reused, bits of used, torn or cut-up paper, suggesting a parsimonious use of the resource or an occasional, if not rare or recreational, use of the written form. The handwriting is often clumsy, and the mastery of language approximative. The use of maxims also reveals working-class origins. Examples include a barely legible card put in the post by a certain Azoulay on 6 December 1935,²⁸ and the letter from an 'old grandfather', who had suspicions about the 'nurse' and suggests that the central commissioner burn her feet to obtain a confession, since 'to great ills, great remedies'. The text is written on a ledger sheet torn from a promotional book from the 'Vache qui Rit' brand, on the back of which is the scribbling of a bill, perhaps written by a tradesman.²⁹



An old grandfather, 2 December 1935, 'false leads' file, item n°35

²⁸ Azoulay, 6 December 1935, 'false leads' file, unnumbered item.

²⁹ An old grandfather, 2 December 1935, 'false leads' file, item n°35.

The 'false leads' file bears witness to the fact that there is no prerequisite of education or familiarity with the written word to contribute to the investigation. It also brought together information from a broad social spectrum. The letters were mainly written by men, some old people, and even a young boy with clumsy handwriting, compelled to write to denounce a 'Romanichelle': 'I am only an 11 year old kid and I can't tell you any more than that'.³⁰ Women are a minority amongst the writers: only 20 letters can be attributed with certainty to women. But many factors may explain this. The kidnapping was a man's business: the kidnapped child was male, his mother remained in the background and the only mediatized woman involved was the kidnapper. The investigators were all men, and was not the gender of the investigation also masculine? Finally, in families, men and women discussed the matter but it was the men, the heads of the family, who took it upon themselves to write.

In response to the call for witnesses, the information addressed to the investigators was first composed of witnesses making links between the description of the kidnapper and child and people they saw on the day of the abduction: old women dressed in black, with limps, walking with a cane with a rubber bottom (this detail was often mentioned), sometimes accompanied by a small child, were reported several times. Others reported women who were known to them and whose lives they considered to be disorganized and crime-inducing, or with whom they had conflicts. A Parisian 'father' reported the widow of a 'certain Doctor Gay who worked in Marseille on Boulevard Garibaldi and who squandered the family fortune on gambling and vice. Supremely intelligent, she hated doctors most particularly and with age, I would not be surprised if she had resorted to the worst mischief to get money and satisfy her vendetta'.³¹ These offers of leads must be distinguished from notices of women resembling the kidnapper. They show a greater freedom on behalf of the authors, in comparison to the investigators' expectations. This is also the case for a number of letter writers who gave the investigators advice based on their personal interpretation of the facts and of the investigation, as described by the media. We know, by means of the newspapers alone, that information regarding the abduction, the kidnapper and the child was broadcast by the TSF. The newspapers' coverage of the case also had the same aim, to begin with. But it also turned out that the latter proceeded to report on the progress of the inquiry, and, as early as the 1 December, on its stalling: 'none of the leads followed have so far led to the child's recovery';³² 'Search in vain! Nothing! Nothing! Such are the words that spring to our pens after a new and exhausting day – the fourth. [...] It must be said, alas, that the inquiry has stalled. It is submerged in darkness instead of shedding any light'.³³ We can therefore see that the temptation would have been great, amongst the public, to comment on the investigation, to criticize it, or even to cast themselves as the investigators. On several occasions, the letter writers called into question the sincerity of the nurse, as well as that of her sister, who li-

³⁰ Eleven year old child, undated, 'false leads' file, item n°34.

³¹ A father, 1 December 1395, 'false leads' file, item n°40.

³² Le Petit Marseillais, 1 December 1935.

³³ Le Petit Marseillais, 2 December 1935.

ved in Endoume, where searches were carried out on 29 November. The two young women were suspected of being accomplices in the abduction. Hence this anonymous letter from 2 December 1935: 'This is from a sure and sincere friend. Closely monitor the sister of the nurse Georgette Perrachon, who lives in the neighbourhood of Endoume. She is the key to unravelling the tragic kidnapping. Do not seek far, look around you. There should be no question now of the woman in black'. Different letters called into question the description of the kidnapper which had been established by the authorities and broadcast by the press. It was not an old woman but a young woman, who did not limp. It might even be a man, dressed as a woman to 'throw the search off track'.³⁴ Some questioned her origins: for some, she was a woman of the underworld, an accomplice of Apaches or seemingly 'living amongst prostitutes', 'in the cafés of the boulevard du Montparnasse', 'nearly always accompanied by young people of ambiguous appearance'.³⁵ But others thought that the guilty parties resided in the same neighbourhood as the Malméjacs, that they were rival doctors, rich families without heirs, or former patients seeking revenge.

To these spectators of the criminal investigation must finally be added the improvised investigators and other amateur police, such as Louis André, who physically carried out an investigation. In the rue Barthélémy, this witness saw a woman answering to the description of the kidnapper coming out of a furnished apartment. He decided to go in to 'ask the lodgers for some explanation'. This sparked a neighbourhood investigation: 'I saw a woman on the first floor, then a man on the ground floor, who both told me that there was no old woman living in the building; I therefore went to the landlord, Mrs Estachon, 33 rue Bathélémy, who declared that she had no tenant fitting the description which I communicated to her and could not explain the old lame woman's presence in her building'.³⁶ Another man said that he was witness to a discussion on the evening of the kidnapping, in front of n°45, between a small group of women, two of whom were 'holding a child between 18 months and 2 years old by the arm, wearing a white hat and walking with difficulty'. Having 'read in the papers about young Claude's kidnapping', he 'thought that perhaps' he was in the presence of the abductor. He therefore decided to take up watch. The next day, he explained to the commissioner, there was very good weather. It was the kind of weather 'in which all the mothers take the opportunity to go out with their young ones to get some air and some sun'. But from '8 in the morning to 5 in the afternoon I did not see a single woman come out with a child from n°45 rue Ste Bazile. It's strange!'.³⁷

Another category of field investigators included the clairvoyants, occultists and radiesthesists, in other words, dowisers who tried to locate the child from a distance, often from the confines of their own homes, equipped with pendulums, photographs of the child

³⁴ A father, 1 December 1935, 'false leads' file, unnumbered item.

³⁵ Vincentelli, 2 December 1935, 'false leads' file, unnumbered item ; Payot, 1 December 1935, 'false leads' file, unnumbered item.

³⁶ Louis André, 30 November 1935, 'false leads' file, item n°13.

³⁷ Anonymous, 1 December 1935, 'false leads' file, item n°1.

cut out of newspapers, operational maps, Michelin maps, or postcards, some of them in their sleep. The involvement of clairvoyants and astrologers in cases of mysterious disappearances was not uncommon at the time.³⁸ The use of radiesthesia was, on the other hand, rather new. In the context of the development of the science of rays, defenders of the ancestral science of dowsing (traces of which can be found since ancient times) tried to distance it from occultism, and to establish its scientific nature.³⁹ The new popularity of the term ‘radiesthesia’ referred to the ‘sensitivity of rays’ emitted by all objects, living or otherwise, and which certain people were more receptive to than others, a receptivity which could be enhanced by the use of rods and pendulums. In the mid-1930s, the debate raged between radiesthesists and rationalists, with the former defending the scientific value of their art and the latter refuting it. The radiesthesists who set out the find young Claude Malméjac were in the thick of this public debate: some expressed themselves with a number of precautions whilst others deplored the fact that the fruitfulness of the practice was not better recognized, its efficiency having been proven, according to them, when the science was practiced by specialists. A defender of divining from Chamonix advised the investigators to seek out Father Mermet, ‘prince of dowsers’, who ‘of all the diviners, is the surest with his pendulum’.⁴⁰ Radiesthesia had scientific trappings: it was based on the progress of the physics of rays, it produced labelled sketches, it called for objective procedures and protocols. Its practitioners were more educated, to judge by their mastery of the written word and by their social status (one of them, for example, was a retired teacher). The same year, the issue was raised in a review of its potential value in matters of justice.⁴¹ Might radiesthesia be added to the toolkit of the scientific police, who appeared at the time to be the most modern and the future of criminal investigations? It offered new means of locating material goods, and missing persons. Since it had not yet been banned from the scientific field, it could still aspire to joining it, as was the case with hypnotism in Germany in the 1920s.⁴² Based on the identification of leads, the localisation of suspects or victims, their monitoring, or shadowing, the practice of divining undeniably had points in common with the methods of the investigation. A letter to Commissioner Couplet from a dowser, M. Gilbert-Lambert, honorary public teacher, is a good example.⁴³ Using his pendulum, he followed the trail of the kidnappers from the evening of 29 November. He discovered their hideaway, which he located with a blue cross on an old operational map included with the letter. He specified that the child was ‘accompanied by two men’, and had then been joined by a woman, and that they had spent the night there. The next day, one of the men left the hideaway around 8 o’clock and went to the north of the valley (also marked with a blue cross). There followed a number of considerations, and then this post-scriptum, written on the morning of Sunday the 1

³⁸ Kalifa, *L’encre et le sang*.

³⁹ Bensaude-Vincent, ‘Des rayons contre raison’.

⁴⁰ Anonymous, 1 December 1935, ‘false leads’ file, unnumbered item.

⁴¹ *Revue Municipale*, 1935.

⁴² Wolfram, ‘Crime, Clairvoyance’.

⁴³ Gilbert-Lambert, 1 December 1935, ‘false leads’ file, item n°3.

December: 'I have just witnessed the movement of the whole gang bringing the child towards the south by the sea, as a result, in his view, of the revelations which had been printed in the newspapers. A man, he continued, left the group to go into town. 'I was able, with the pendulum, to catch up with the man in town and I followed him into a house which I had already identified on Friday night'. From Barbentane, where he lived, this seasoned diviner had undertaken a shadowing operation in the manner of a detective or a policeman. He offered to continue if the police would send him a map of the town, and concluded: 'I beg of you, Chief of Sûreté, do not listen to the bad press which refuses to believe in the resource of radiesthesia'.

With the exception of certain malicious accusations, the declarants were contributors to investigation who observed, asked questions, gathered data, followed deductions, and built up developed narratives. They shared a common culture of investigation and testified to its democratisation.⁴⁴ As one anonymous person wrote: 'I only know what the newspapers have published about this case, but certain specifics of these publications have led me to make deductions'.⁴⁵ For her part, Mme Malméjac's sister-in-law declared having led her 'own little personal investigation'.⁴⁶ The collection of information in the procedural file shows a protean 'judicial popular policing' which brought grist to the professional investigators' mill. More than a sum of individual experiments, it is but a part of a greater inquisitive community which built up around the missing child and his parents, and which tended to subsume the community of professional investigators, in a context of a test to the criminal investigation and its actors.

III. CRISIS AND EXTENSION OF INQUISITIVE COMMUNITY

In the procedural file, the information and witness accounts which did not help to lead the investigation in the right direction were gathered under the title of 'false leads', and thereby disqualified, with the arrest and confession of the guilty parties enabling justice to take its course and establish the judicial truth. This shelving is a form of archive: it allowed the investigators to keep a trace of the data without hindering the course of the inquiry. It also undoubtedly has a performative function: to affirm the power of a well-ordered justice system. And yet, this ordering only took place after the facts. From 28 November to 2 December, the priority given to the search for 'young Claude' meant that the investigation took on an unusual character.

In theory, criminal investigations are governed by rules and deployed within a framework defined by the code of criminal investigations. They must be presented in written form. All of the items in the inquiry, and all of the acts of the investigating judge, must figure in the procedural file. An investigating judge directs the investigation, assisted by auxiliaries from the criminal police, if the inquiry is taking place in a town. Usually, the investigating judge officiates from his office in the courthouse and his auxiliaries carry

⁴⁴ Kalifa, 'Enquête'.

⁴⁵ Anonymous, 30 November 1935, 'false leads' file, item n°17.

⁴⁶ Roche statement, 29 November 1935, item n°307.

out complementary investigations at his request, following his instructions. The balance between these different actors is unstable, because their categorical aims, professional cultures and class membership often differ.⁴⁷ This balance, along with the respect for proceedings, was tested over the course of the few days when investigators were focused on the search for Claude Malméjac, primarily because Judge Minnard kept the investigation moving at a rapid pace. On 29 November, he formed a number of ‘very urgent’ delegations and rogatory commissions and granted his auxiliaries maximum freedom of movement, their only instructions being ‘for the purposes of the search’. In these conditions, the Sûreté carried out autonomous searches in their own way, following the first witness accounts which they had received. This was why the service searched Endoume and the Vallon-des-Auffes, requisitioning uniformed police officers and police dogs. The press reported between 220 and 250 inspectors in the town and its surroundings.⁴⁸ The next day, the same criminal police service received a delegation from the judge which sounded like a call to order.

The investigating judge, concerned with the respect of the written procedure, asked Commissioner Couplet to give formal hearings to those witnesses who had verbally guided the activities of his service the previous day. He expressed surprise that Marseille-Matin had mentioned the existence of a past attempted kidnapping which the police had known about, but which he did not. He also asked for hearings to be given to different individuals interviewed by the journalists as witnesses, who had not yet been heard in the context of the criminal investigation. Finally, on the subject of a lead ‘which the press is also talking about’, he wrote: ‘keep me informed [...] so that nothing will be overlooked in the files of this criminal matter’. Concerned that justice may be found wanting, the investigating judge found himself adjusting the framework of the legal inquiry with regard to police and journalistic investigations.⁴⁹ René Minnard also attempted to rein in the Sûreté service’s action which he deemed to be too autonomous and demonstrative. He therefore demanded that ‘all documents and convicting items which have been entrusted to you or may come to be found be addressed to [his] cabinet without delay, so that [he] might usefully direct the investigation which [he had] divided up for emergency reasons between the different services in the field in Marseille’. He therefore effectively chose to entrust the missions of fact-checking in the field to the Mobile Police, who were more discreet, leaving more bureaucratic operations to the Sûreté.

And yet, when the kidnappers were arrested on 2 December, the Sûreté had not finished hearing witnesses from the first few days under oath. The emergency nature of the search had to end before the conformity of the investigation could be restored. Moreover, it was the Sûreté who found the child, on the basis of a tip-off which was communicated to them and which Commissioner Couplet took the initiative of checking with his agents, before addressing it ‘without delay’ to the courthouse. This was the service which was congratulated by *Le Petit Marseillais* in its pages on 3 December: the Sûreté therefore

⁴⁷ Farcy, ‘L’enquête pénale’; Lopez, ‘Magistrats, policiers et gendarmes’; Tanguy, ‘Le juge d’instruction’.

⁴⁸ *Paris-Soir* and *Le Journal*, 1 December 1935.

⁴⁹ Delegation of René Minnard to the central commissioner, 30 November 1935, item n°43.

played a different role in this investigation than that assigned to it by the investigating judge. The search for the child therefore put a strain on the hierarchical relationship between the judge and the criminal police in Marseille. It would appear that the search also contributed to eroding the limits which ordinarily held between the judge and his cabinet, policemen in the field, and between these professional investigators and the population. The judge and his registrar went themselves to a retirement home on 29 November to check on a lead, thereby carrying out a task which would usually have fallen to the police services. Policemen were working on 29 November alongside the father of the child and different witnesses. Albert Tomassonne, the taxi driver, took part 'in the search, sorting through the unclear points of the witness accounts pertaining to the 'old woman in black'.⁵⁰ The newspapers reported that Jean Malméjac, 'the unhappy father of the unfortunate child, professor at the Faculty of Medicine in Marseille, took part, along with the head of the Sûreté, M. Couplet, in an expedition to the neighbourhood of Endoume'.⁵¹ A photograph from 2 December shows him on a train taking notes on a notepad of the information provided by Doctor Cézilly, in the manner of a police inspector.⁵² Alongside the policemen, the father and the taxi driver, there were also the journalists. A photograph from *Le Petit Marseillais* shows Jean Malméjac surrounded by policemen and journalists. He is addressing them, they are taking notes: all of them seem to make up a large team of investigators. These stagings may have been for the purposes of the media. The figure of the investigating journalist is common to all of the articles.⁵³ The staging of this group of investigators satisfied media logics. Nevertheless, it was based on a certain reality: journalists did become auxiliaries of the judge when they followed up leads or collected witness accounts which were then checked or made the objects of follow-up investigations in the framework of the inquiry. Added to the fact that *Paris-Soir* encouraged the stream of witness accounts and the policemen's zeal by offering 40 000 francs to whoever could give conclusive information and 20 000 francs to the policemen who found young Claude, we can consider that the time dedicated to the search for the child expanded the perimeter of the investigation well beyond its ordinary institutional limits.

The magistrate and the Sûreté seem in part to have been dispossessed of their preeminence, overrun by a larger inquisitive community with its roots in the population. This impression was reinforced by the presence of judicial and police counterparts amongst the lay-investigators, or alongside them. Amongst the 'false leads', for example, is the witness account of a secretary from the Marseille police, Paul Polidori, who like so many others saw, on 28 November, an old woman fitting the description of the kidnapper.⁵⁴ Another witness explained that he had begun an investigation with his district commissioner, before pursuing it with his wife, in spite of its unfruitfulness.⁵⁵ We can speak of a

⁵⁰ *Le Petit Marseillais*, 30 November 1935.

⁵¹ *Le Journal*, 30 November 1935.

⁵² *Le Petit Marseillais*, 2 December 1935.

⁵³ Boucharenc, *L'écrivain-reporter*.

⁵⁴ Statement of Paul Polidori, Couplet Statement, 2 December 1935, item n°80.

⁵⁵ A father, 'false leads' file, 30 November 1935, item n°27.

community because amongst both the police and the contributors, the collective nature is apparent. The case sparked conversations, debates and inquiries, with families, friends and neighbours. An anonymous source, for example, denounced a resident of the Longchamp neighbourhood, adding that he had ‘friends in the neighbourhood who are absolutely of the same opinion and like [him] noticed this woman’.⁵⁶ But it is even clearer that the community was bound together by the media. The common point linking all of the contributors to the investigation was that they were following the case in the media. Many of them associated their statements with the reading of the newspapers. The court usher Louis André, for example, wrote that he was ‘intrigued’ by ‘the similarity’ between the woman he saw on rue Barthélémy and ‘the description that was given in *Le Petit Marseillais*’. A dowser from Fère-en-Thardenois (Aisne) boasted of having found ‘the approximative place where the old woman can be found’. He added: ‘based on the newspaper accounts, I could see that I was on the right track’.⁵⁷ Madame Saurin, a teacher, wrote: ‘Having been moved by the account in the papers, I cannot resist the urge to share what I saw’.⁵⁸

In the 1930s, newspapers dominated the media sphere, the expansion of which accompanied the growth of mass culture. The circulation of the biggest dailies reached two million copies, as was the case for *Paris-Soir* in the mid-1930s. The radio also grew considerably.⁵⁹ It was the media that broadcast the call for witnesses, before following the investigation, reporting on the work of the police, and then on the stalling of the inquiry. The radio broadcast statements from the Malméjacs to the kidnappers, the transcripts of which were reprinted in the papers. All of them described, with great pathos, the anguish of the parents, and *Paris-Soir* offered rewards: caught up in logics of revenue and competition, the dailies competed ingeniously to occupy centre-stage in the media landscape and to hold their readers’ attention. The media was the pivot for a vast community of readers and listeners, united by the disappearance of Claude Malméjac. On 1 December, *Le Petit Marseillais* expressed this function of the press, likening it to ‘the conscience of thousands of good people who for the last two days have identified with the pain of the unfortunate parents and who would like to alleviate it’.⁶⁰

This community has something to do with Benedict Anderson’s ‘imagined community’, in spite of the reservations which the concept has garnered.⁶¹ Its members, unknown to each other, shared the same culture (of investigation) and the same aim: to find the child, and restore him to his distraught family. Its real existence is even more believable since the newspapers made it exist in their columns, by expressing the collective, if not unanimous, dimension of the popular mobilisation and compassion. *Le Petit Marseillais* wrote on 30 November: ‘The story of the horrible kidnapping of a child was enough

⁵⁶ Anonymous, 30 November 1935, ‘false leads’ file, item n°6.

⁵⁷ Villot, 5/12/1935, ‘false leads’ file, unnumbered item.

⁵⁸ Letter from Mme Saurin, 29 November 1935, ‘false leads’ file, item n°20.

⁵⁹ Charle, *Le siècle de la presse*, p. 265 ; Schor, *Histoire de la société française*, p. 212–213.

⁶⁰ *Le Petit Marseillais*, 1 December 1935.

⁶¹ Anderson, *Imagined Communities*; Chivallon, ‘Retour sur la “communauté imaginée” d’Anderson’.

to make Marseille's big heart shake. The greatest emotion rocked our city yesterday, with everyone speaking of the terrible events. [...] once the initial shock had passed, the whole city asked itself how it could lend its assistance to the unhappy mother whose heart had been broken. The unanimous pain of the city quickly transformed into an immense desire to cooperate in the anxious search.' Jean Marèze, special envoy from Paris-Soir, wrote in his article published on 1 December: 'It was enough to go to Marseille to understand the extent of the sincerity and strength of emotion which has taken over the city since the mysterious kidnapping of young Claude Malméjac.' Further, 'In Marseille, they speak of nothing else. In the streets, in the cafés, in the bars, the groups are forming, everyone gives their opinion. Gossipers intercept passers-by to see if there is any news.' On 3 December, when the child was found and returned to his parents, *Le Petit Marseillais* printed that: 'Passers-by unknown to each other asked each other: is it true, at least? Those who asked this question did not need to specify further. Everyone knew what they were talking about.' The article was accompanied by a photograph showing passers-by looking happy, learning of the good news from the 'luminous panels of Cinéac – Le Petit Marseillais'.⁶²



'Some emotional faces of passers-by reading the news on the luminous panels of Cinéac – Le Petit Marseillais', *Le Petit Marseillais*, 3/12/1935

The contributors to the enquiry could be considered as having been active members, spurred to speak by different motives. Some hoped to claim the reward offered by Paris-Soir. Other had to overcome the violent emotions sparked by the narratives in the press by speaking out. The licensed investigators, the judge and the police, were part of

⁶² *Le Petit Marseillais*, 3 December 1935.

this community, but they had a different relationship with the media, inasmuch as they were concerned with the media reputation of their institutions. The investigating judge, for example, read the press on the morning of 30 November and asked the Sûreté to re-orient their action as a result. For its part, the Sûreté had journalists by its side the day it carried out field searches in Marseille, in order to be fairly treated in the columns the following day.

In the newspapers, the heart of Marseille beat to the rhythm of the investigation, but not that of France. The perimeter of the inquisitive community was not, however, limited to the city. To be sure, in order to follow the case from outside of Marseille, listeners and readers had to be interested in the fate of the Malméjacs. Maurice Duffosé, a diviner from Haute-Marne who offered his services to the Marseille police on 2 December, explained that he was responding late because since he ‘rarely read the daily newspapers’, he only learned of the case by reading ‘*le Petit Parisien*’ ‘by chance’.⁶³ Interest in the case nevertheless extended beyond the local scale. 42 letters were posted from Marseille, but others came from the Paris and Lyon regions, the Alpine region, the departments of Var, Vaucluse, Drôme, Hérault, Aisne and even from Switzerland. This can be explained by the mediatisation of the case beyond Marseille, with declarants indicating various journals as references, including *Excelsior*, *Paris-Soir*, *Paris Midi*, *le Petit Var* and *L’Eclairer de l’Est* (Reims). Incidentally, it was the publication of the photograph of the guilty parties in the press which led to their identification: the mother and son were recognized by a private detective agency in Paris, the Office International de Recherches, who had been on their trail since a theft had been committed several years before in Rouen.⁶⁴

If the field of the inquiry momentarily extended well beyond the criminal investigators and the police, it was because the kidnapping had a particularly strong social resonance. As during declarations of ceasefire or during political transition, a kind of lawlessness momentarily took over, although the scale was obviously not the same. The collective fervour which seized the investigators, journalists and public alike, can be explained by the particular quality of the victim and the previously unseen nature of the offense, in a context of strong collective sensitivity to child kidnappings. The villainous act targeted an unquestionably innocent victim, a small child, and struck at the heart of a father, a mother, and a whole family, arousing collective compassion which transcended social or political differences. *Le Petit Marseillais* made itself the echo of this sentiment: ‘In every household, from the most luxurious to the most humble, all thoughts went to the parents crying for their lost child’.⁶⁵ Some weeks earlier, incidentally, the lifeless body of Nicole Marescot, four and half years old, had been found. She had been kidnapped and murdered in Chaumont (department of Haute-Marne) on 19 April 1935. The searches following her disappearance had sparked great mobilisations.⁶⁶ When the disappearance of ‘young Claude’ was announced, everybody therefore feared the worst. Because this ab-

⁶³ Letter from Maurice Duffosé, 2 December 1935, ‘false leads’ file, unnumbered item.

⁶⁴ Note from 3 December 1835, Cézilly inquiry, n°46.

⁶⁵ *Le Petit Marseillais*, 3 December 1935.

⁶⁶ Clément, *L’affaire Socley*.

duction targeted a young boy, the motive of the kidnappers seemed mysterious. However, the newspapers quickly made a link to the Lindbergh case, whose victim was also a young boy, and as soon as the ransom demand was unveiled, the similarity appeared unquestionable. The kidnapping of the Lindbergh baby garnered a lot of media attention in Europe in 1932.⁶⁷ The similarities with the Malméjac case were interpreted as a new sign of the contamination of France by the vices of the United States. It was feared that there was only a small step between kidnapping and the importation of gangsterism.⁶⁸ In the France in the 1930s, weakened by the economic crisis, the crisis of the institutions and values, and by political disunity, such a crime could not fail to bring people together and the child's recovery be a breath of fresh air: *Le Journal* and *Détective* both featured gangsters from Marseille condemning the kidnapping, themselves scandalised by such criminal methods.

The abduction of Claude Malméjac in Marseille in 1935 was a singular event. The act shocked its contemporaries on more than one count: the victim was a small child, the family was attacked through him, the kidnappers seems to have brought a dreaded kind of North American criminality to France and therefore further evidence, if it was needed, of the disintegration of values. The linking of this abduction with the Marescot and Lindbergh affairs also contributed, at the time, to increasing its dramatic intensity. It was in this context that the investigators, lacking leads, appealed to the population to move the investigation forward, by means of the radio and the written press. The broadcasting of information in the media, followed by the coverage of the case, sparked a large popular mobilisation. Alongside eyewitness accounts, which met with the investigators' expectations, there were also contributors who wished to be part of the cast of the investigation. They individually exercised a form of judicial popular policing. Yet the extraordinary nature of the crime tested the institutional actors of the investigation, compromising their hierarchical structures and usual practices, to the extent that they seemed to melt into the wider inquisitive community, which collectively exercised judicial popular policing, the aim of which was to restore social order and consensus, in a France in the throes of disunity and crisis.

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⁶⁷ Aron and Vérilhac, Roy Pinker.

⁶⁸ For example, *Le Journal*, 3 December 1935.

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Policing, Participation and People: some historical perspectives

Xavier Rousseaux

The focus of this book and of the conference from which it emerged relate to popular participation in social control and local policing. The project aims to reverse the traditional historiographical approach to policing from the eighteenth century onwards in Western Europe. This traditional perspective underlines the increasing monopolisation of public order by central governments who took the initiative to professionalise the actors of social control, and gradually adopted the functions of public order for the benefit of public, local or centralised authorities. In contrast, an interpretation which focuses on a bottom-up approach, as in the concept of “popular participation”, highlights more complex relationships between authorities who guarantee security, and residents seeking public order. However, proponents of “popular participation” must avoid two pitfalls. First, they must avoid creating a radical opposition between elites and people uniformly subject to public order in the service of the elites. Second, they should avoid proposing an irenic vision making the local community the sole legitimate authors of public order working in the service of all. Both interpretations – either the conflictual reading of law enforcement officials like police officers or frontline judges as “watchdogs of capitalism” or servants of particular interests, as well as a consensual reading of the community – consider the people and power to be monolithic and eternal entities. The socio-historical approach defines public order as a space for debate, always unstable, split between the demands of divergent interest groups. Developing a socio-historical approach is therefore a question of rediscovering the dynamics behind the construction of public order as related to the balance between the demands of the population and the ideology of the authorities. We have also sought to uncover how control was shared between the groups constituting each community as power was delegated, captured or reinterpreted by the public authorities for their own benefit.

From the eighteenth century until the present day, the population has remained a major actor in public order. The use of the generic term ‘population’ here should not obscure in each field of observation the diversity of the components of each local population, nor the variety and heterogeneity of the groups to which it belongs. In this book, these range from a Milanese village in the eighteenth century, to a French provincial city in the nineteenth century or indeed the Catalan metropolis at the beginning of the twentieth century. On the other hand, concepts such as co-construction between actors, or “cooperation” between competitors, can reflect the mechanism of public order formation.¹ Ho-

¹ Brandenburger and Nalebuff, Co-opetition.

wever, they do not define what this public order would be. It seems to us that the notion of a common order, based on concrete objectives and going beyond either class lines between the elites, wealthy and the working classes, or the ideological differences between supporters of revolution and security, makes it possible to better understand how public order is constructed on a daily basis, building on a precarious balance of tensions between individual behaviour and group interests.

As Emmanuel Berger and Antoine Renglet point out in their introduction, the relationship between forms of popular participation and public institutions in policing can be described as follows in various ways.

The involvement of local representatives in choosing the actors for common order is a first element of popular participation. Before the eighteenth century, a multiplicity of power relations and actors was the rule in each territorial configuration, whether village, urban space, or territorial principality. The studies gathered here call into question the simplified vision of the regular transition from an old regime of orders and hierarchies based on personal status moving to modern states based on a uniform public order. For both the judiciary (in particular the small offices) which guarantees efficient social functioning (hygiene, commerce, night police, local justice), and also for the local actors of policing, popular participation interferes with the recruitment, retention or renewal of official actors. Driven by population growth, during the period 1750-1850 there was a movement amongst central authorities in Europe driven by their desire to better control local orders. This led to tensions between the maintenance of traditional forms of local police. Recent work on the cities of the Ancien Régime (Naples, Madrid, Milan, Milan, Toulouse, Paris, Brussels) paints a more subtle landscape than the traditional view of an opposition between community control and new police and judicial institutions organised by the State. At this time, some new magistrates, such as the *Alcades de barrios* in Madrid, are challenging old practices, while others, such as the Neapolitan *Capitani di Strada*, are evolving with the establishment of new structures designated from above. On the one hand, workers and craftsmen rooted in their neighbourhoods impose their authority by their ability to represent their peers through these small magistrates. On the other hand, central governments, whether by choice or because they are forced to, start to invest in the development of transmission belts with the working classes, especially in cities dominated by traditional elites (Marin, Antonielli). These approaches to negotiating public order sometimes run counter to the willingness of reformers to break complex relationships between populations and local elites, in favour of a rationalized vision of the State's public policy prerogatives.

Revolutionary movements, whether endogenous or exported, such as the French Revolution and the Napoleonic Empire, accentuate these tensions between a "centralizing" order and local populations. The sets of scales are becoming more important. Despite the willingness of the central authorities to create a uniform "public" order, the study of each local situation highlights the relative influence of each population in managing the local order....

Disorder is another laboratory for the study of concepts of order. Managing disorder is the concern of any local authority, and the support of sections of the population is essential in the face of external or internal threats. Studies on national guards establish the principle of self-control in times of crisis, either locally or by central government. The different scenarios presented focus on traditional policing structures within which national “guards” are established. Such structures do come into existence spontaneously, and they display a clear connection with the structures of urban policing under the Ancien Régime. The bourgeois guards of the former regime are the obvious symbol to locals of the community’s ability to take charge of the return to disturbed order, particularly with regard to threats outside the community. For medieval cities enclosed within walls, urban militias, composed of the active part of the male population, are called up in the event of a threat outside the city limits (war, epidemic...). Nevertheless, the problem with these urban communities is that some of their members group together as rebels against urban authority.² The disappearance of urban ramparts and the use of military forces in the event of unrest reflect the gradual integration of local communities into larger political territories (principalities, kingdoms). This “relocation” of public order is particularly evident during revolutionary periods, marked by the strong politicization of traditional structures for the restoration of order. The “national” or “bourgeois” designation attached to active guards during revolutionary unrest highlights the ideology of the common good (national, patriotic, republican), or the supporting group (bourgeoisie, craftsmen, workers...) promoted by the institution. Public order is no longer just a problem for the local authorities, but becomes a problem of co-construction on the local and supra-local levels. Despite their apparent radical diversity, the two “Parisian” examples of the Revolutionary reports committee (Castellà i Pujols) and of the development of the high police of Napoleonic surveillance (Le Quang), demonstrate how much this “deteritorialization” of public order is possible only through the participation of local groups, or thanks to individuals interested in reporting local disorders to the central government. In the first case, revolutionary “policing” is thought of as a local community extended to the nation; civic denunciation is intended to be exercised in an act of transparency and separation of powers. In the second case, the threat and disorder are reduced to the individual level by the central power, in a confusion between police and justice, supported by discreet local interests. Civic denunciation becomes a secret and anonymous denunciation.³ The French model of *Garde Nationale* is the ultimate expression of bourgeois participation in the local order. Nevertheless, as the example of the Cisalpine Republic shows, this model is changing into conquered territory (Dendena). Recruiting mainly volunteers from the urban working classes who are seduced by revolutionary change, the national guards are used to fight against robbery and smuggling on the margins of the Republic. Their military failure and their popular constitution as urban artisans will lead to their dissolution in favour of more endogenous forms. The same applies to deba-

² Chiffolleau, Gauvard and Zorzi, *Pratiques sociales et politiques judiciaires*.

³ Gellately and Fitzpatrick, *Accusatory Practices*.

tes on local justice during revolutionary conquests, as shown by the example of the Duchy of Warsaw which was subject to French and Russian influence. Should local judges come from the population, through elections, or represent traditional urban or rural elites (Galeddek)? Tensions between central power, intermediate elites and local populations can be found in the “modernization” of order and justice.

In the nineteenth century, in the French territories, the “national” guards were most often made up of liberal bourgeoisie whose interests were primarily the maintenance of their domination in the urban space and the protection of property. Depending on the local political configuration and whether it is during a time of crisis, these units bring together different strata of citizens, supporters of the Revolution, a moderate monarchy or a “sharing” republicanism as mentioned in the examples of Rennes and Lyon (Drober, Pareyre). In the southern European states, during the 1848 movements, local participation in the “national guards” aimed at ensuring security and tax collection produced a dual movement of politicization of local citizens, and political appropriation by local communities (Delpu). This function of expressing rivalries and local politicization partly explains the composition of the political parties that emerged in Europe in the second half of the nineteenth century and which built local democracy.

The abolition of national guards at the end of the nineteenth or beginning of the twentieth century in France did not prevent the evolution of a myth of popular participation in policing. Following the 1870 German-French war, however, in a totally different context, namely that of the modern war between national armies, the myth of the national or civic guard as being poorly armed, poorly uniformed, and undisciplined resurfaced in the mythology of “franc-tireurs”. Does this official vacuum of popular participation in local order leave room for other forms of mobilization to defend collective interests? In the interbellum period, paramilitary groups, soviets of soldiers, *corps-francs* or workers militias, were to flourish, as an expression of popular power, in the context of the polarization of anti-democratic forces.

Another form of popular participation in the control of disorder highlighted in this book was the recruitment of self-proclaimed supplementary groups, most often based on forms of community associations, such as the *Voraces* lyonnais during the *Canuts* revolt, the Sicilian *Squadri* in rural areas or the *Somatent* in an industrialized metropolis like Barcelona (Pareyre, Scaramuzza, Grafl). On the one hand, these two examples, among others, highlight the relationship between the different forms of control over production tools (Lyon trades, Sicilian rural properties, or Barcelona factories) and the interests of their owners. The training and police activity of these militias was often necessary in times of unrest, but did not easily coexist with the public forces. They existed in areas undergoing profound transformation, the rural world emerging from local feudalism, through the Garibaldian invasion, or the Mediterranean port cradle of extreme class struggles. Such militias are based on traditional or invented structures which were used to meet new needs. Moreover, these examples raise a question that is not very much addressed in this book, that of the cost of collective security and the interest of certain groups of the population in exerting control in a way beneficial to their interests, lea-

ding them to manage or even create their own protection services (privatized security). This work can be linked to the current research on the emergence of private security in contemporary societies.⁴ It is again a question of breaking the image of private competition with official law enforcement agencies, and of formalizing the relationship between public security and the needs of population groups (security of production tools, movement of goods, etc.) Not only does the formalization (uniform, disciplinary ethos, training) of private security agents require an adjustment of relations with official law enforcement agencies. It also introduces complex negotiations between special interests and the public interest, and redefinitions of private, community and public spaces; in short resulting in the monopoly of the public use of legitimate force.

Nevertheless, it remains true that the trend towards public control of community order is a major phenomenon in Western Europe between the eighteenth and twenty-first centuries. The growing influence of the official forces of law and order, both in doctrine and in the field, leads to ever more complex requests addressed to them. A call for policing is another form of popular participation, whether it is focused on protecting the owners in rural areas or areas less controlled by the national state (with the evoked threat of robbery), or protecting the property of industrialists (threat of predation), small traders, and working-class districts (threat of lumpenproletariat). The increasing demands of the population on the police marked the evolution of urban police in the nineteenth and twentieth centuries, particularly in metropolitan areas or capital cities. Some groups criticize police laxity while others complain about their interventionism (Vaz). The popular press reinforces this binary image of either a lax or repressive police force, depending on the demands of local or national elites, and also on the "scandals" that allow criticism of the ruling power. Petitions and press are demonstrating these pressures from below to demand protection for the different groups. In reverse, it seems important for the relevant authorities to control these new requests and integrate them into traditional forms of order. The French case study highlights the fact that parliamentary democracy is wary of popular intervention, but it also incites the police, in particular the gendarmerie and urban police, to exert ever less violent coercion towards popular demonstrations (Lopez). The legitimacy of the police as representatives of the population depends on this mitigation of violence.

The experience of war adds an additional level of complexity for policing. The legitimacy acquired by official law enforcement agencies in most nineteenth century states becomes undermined by the new phenomenon of long-term military occupation. Thus the long wars of the twentieth century will see denunciations play a considerable role in conflicts of public order. Citizens are confronted with competition between the security forces of the occupying and occupied state. Both the first and second world wars lead to a conflict of legitimacy, which, in reverse, legitimizes practices of double games between public authorities (denunciation), the development of semi-official police forces, or armed opposition against the occupier and its national collaborators. Reporting to the authorities is a much more explosive exercise in occupied societies. While fear of enemy

⁴ De Koster and Leloup, 'Policer le port d'Anvers'; Leloup, 'A Historical Perspective'.

spies manifests itself behind the front line (Ronan), it is much more devastating in occupied countries where the categories of enemy and friend are blurred.⁵ Military operations promote the return of practices that predate the State's control over public order, such as rural banditry or revenge killings, and also undermines the State's monopoly and citizens' trust in it.⁶ To relegate itself, the state must rethink the relationship between citizen participation and public authority in policing.

A final place where people's demands on the authorities converge is in the "horrible" rumours and crimes that generate popular emotions during threats perceived as unusual. In 1750, the case of child abduction had stirred up the Parisian crowds.⁷ The emergence of the "popular" press provides a permanent framework for the expression of anguish linked to predators targeting vulnerable individuals (children, isolated women, the elderly, etc.). Not only do journalists become investigators in the name of popular legitimacy, but official investigators also do not hesitate to use the press as a channel of communication with the public. In major European cities the emergence of American-style "kidnappings" reflects on the one hand the fear of the moral disintegration of living communities (neighbourhoods, parishes), and on the other hand, the atomization of social control and the individualization of popular demands. Child abduction is a profound revelation of the transformations of perceived threats in an individualized society, which is detached from the traditional collective protection of the community. The answer, skillfully staged or escaping the authorities, is the wave of individuals participating in the hunt for perverse criminals. However, this phenomenon introduces a disparity between cases which became media sensations, and those that remain in the shadows. The Malméjac case is based on the investigators' willingness to call witnesses while refusing to allow citizens to interfere with the investigation itself (Montel). This last case, in response to the growing concerns of cosmopolitan societies about attacks on their most vulnerable members, children, highlights a blind spot in the research presented here, namely the participation of women in public order. Much of the uproar caused by child abduction cases in Europe since the 1990's is characterized by the mobilization of women of all social levels and ages who are reactivating local networks of solidarity to form popular anti-abduction protest marches and groups. As a result of these movements, there has been a global transformation of the police system, where the supposed priorities of the population are integrated into police action plans.

The work begun by this book offers new perspectives on over two centuries of the relationship between police, justice and the population. It confirms the paradox of the demand for security. Insofar as conflict regulation emerges from the local context to the benefit of state and national authorities as part of their claim to a monopoly on the use of physical coercion, police and courts must rebuild the legitimacy of their action. Such legitimacy is based on the participation of populations who are gradually deprived of any

⁵ Campion and Rousseaux, *Policing New Risks*.

⁶ Thiry, *Le tribut des temps troubles*; Leloup, Rousseaux, and Vrints, 'Banditry in occupied and liberated Belgium'.

⁷ Farge and Revel, *The Vanishing Children*.

direct intervention in public order and justice. In fact, whether they tacitly approve, collaborate in an auxiliary manner or in times of crisis or occupation, or replace disorganized or powerless law enforcement agencies, the various components of the population have never stopped negotiating a shared public order with the authorities.

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